CODE OF ORDINANCES

CITY OF

MANKATO, MINNESOTA

Published in 2025 by Order of the City Council

municode
POWERED BY CIVICPLUS

info@municode.com | 800.262.2633 | www.municode.com

P.O. Box 2235 Tallahassee, FL 32316

OFFICIALS

of the

CITY OF

MANKATO, MINNESOTA

AT THE TIME OF THIS RECODIFICATION

Najwa Massad
Mayor

Mike Laven, At Large
Michael McLaughlin, Ward 1
Dennis Dieken, Ward 2
Kevin Mettler, Ward 3
Jenn Melby-Kelley, Ward 4
Jessica Hatanpa, Ward 5
City Council

Susan Arntz
City Manager

Renae Kopischke
City Clerk

PREFACE

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

Source materials used in the preparation of the Code were the 2015 Code, as supplemented through November 28, 2022, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2015 Code, as supplemented, and any subsequent ordinance included herein.

Acknowledgments

This publication was under the direct supervision of Sandra S. Fox, Senior Code Attorney, and Amy Norton, Editor, of CivicPlus, LLC, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

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

Copyright

All editorial enhancements of this Code are copyrighted by CivicPlus, LLC, and the City of Mankato, Minnesota. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of CivicPlus, LLC, and the City of Mankato, Minnesota.

© Copyrighted material.

CivicPlus, LLC, and the City of Mankato, Minnesota. 2025.

TABLE OF CONTENTS

Page

Officials of the City at the Time of this Recodification iii

Current Officials (Reserved) v

Preface vii

Adopting Ordinance (Reserved)

PART I

CHARTER

Charter CHT:1
Ch. 1. Name, Boundaries, Powers and General Provisions CHT:5
Ch. 2. Form of Government CHT:6
Ch. 3. City Manager. CHT:14
Ch. 4. Administrative Departments CHT:17
Ch. 5. Initiative, Referendum and Recall of Elective Officers CHT:17
Ch. 6. Financial Procedures. CHT:21
Ch. 7. Elections CHT:27
Ch. 8. Assessment Procedures CHT:29
Ch. 9. Planning. CHT:30
Ch. 10. Miscellaneous Provisions CHT:31

Charter Comparative Table—Legislation. CHTCT:1

PART II

CODE OF ORDINANCES

Chapter

1. General Provisions CD1:1

2. Administration. CD2:1
Art. I. In General. CD2:3
Art. II. Boards, Commissions, and Committees CD2:7
Art. III. Administrative Procedure. CD2:12
Div. 1. Generally. CD2:12
Div. 2. Administrative Appeals CD2:15
Art. IV. Affordable Housing Trust Fund. CD2:22
Div. 1. Generally. CD2:22
Div. 2. Housing Trust Fund Account CD2:23

3. Alcoholic Beverages CD3:1
Art. I. In General. CD3:3
Art. II. Licenses and Permits CD3:4
Div. 1. Generally. CD3:4
Div. 2. Intoxicating Liquor Licenses. CD3:4
Div. 3. Malt Liquor Licenses CD3:13
Div. 4. Non-Enclosed Premises CD3:13

Chapter		Page
	Div. 5. Temporary Licenses	CD3:15
	Art. III. Procedure	CD3:17
4.	Animals	CD4:1
	Art. I. In General	CD4:3
	Art. II. Dogs and Cats	CD4:8
	Div. 1. Generally	CD4:8
	Div. 2. Potentially Dangerous and Dangerous Dogs	CD4:12
5.	Buildings, Housing and Construction	CD5:1
	Art. I. In General	CD5:3
	Art. II. Construction Codes	CD5:4
	Div. 1. Generally	CD5:4
	Div. 2. Fire Code	CD5:7
	Div. 3. Housing Code	CD5:9
	Art. III. Permits	CD5:12
	Art. IV. Public Safety Radio Transmissions	CD5:15
6.	Businesses and Licensing	CD6:1
	Art. I. In General	CD6:5
	Art. II. Licensing	CD6:5
	Art. III. Specific Business Operations	CD6:8
	Div. 1. Generally	CD6:8
	Div. 2. Carnivals	CD6:9
	Div. 3. Tobacco	CD6:11
	Div. 4. Peddlers, Solicitors and Similar Vendors	CD6:17
	Div. 5. Transportation Network Companies	CD6:21
	Div. 6. Taxicabs	CD6:34
	Div. 7. Mobile Food Units	CD6:42
	Div. 8. Gambling	CD6:48
	Div. 9. Pawn Shops	CD6:51
7.	Dwelling Unit Rental	CD7:1
	Art. I. In General	CD7:3
	Art. II. Licensing	CD7:5
	Art. III. Conditions of Licensure	CD7:13
	Art. IV. Off-Street Parking for Rental Properties	CD7:18
	Art. V. Administration and Enforcement	CD7:20
8.	Environmental Control	CD8:1
	Art. I. In General	CD8:3
	Art. II. Erosion and Sediment Control	CD8:3
9.	Fire Prevention and Other Public Safety Control	CD9:1
	Art. I. In General	CD9:3
	Art. II. Explosives	CD9:3
	Art. III. Alarm Systems	CD9:5
	Art. IV. Fireworks	CD9:7
10.	Land Use and Development	CD10:1
	Art. I. In General	CD10:19
	Art. II. Residential Districts	CD10:34
	Div. 1. Generally	CD10:34

Chapter		Page
	Div. 2. T Transition District	CD10:36
	Div. 3. R-1 One-Family Dwelling District	CD10:37
	Div. 4. R-2 One- and Two-Family Dwelling District	CD10:39
	Div. 5. R-3 Limited Multiple Dwelling District	CD10:42
	Div. 6. R-4 Multiple-Family Dwelling District	CD10:45
	Div. 7. R-T Residential Transition District	CD10:48
	Div. 8. OR Office-Residential District	CD10:50
	Art. III. IO Institutional Overlay District	CD10:54
	Div. 1. Generally	CD10:54
	Div. 2. Use Regulations	CD10:55
	Art. IV. Manufactured Homes	CD10:58
	Div. 1. Generally	CD10:58
	Div. 2. Manufactured Home Parks	CD10:58
	Art. V. Commercial Districts	CD10:65
	Div. 1. Generally	CD10:65
	Div. 2. General Requirements	CD10:65
	Div. 3. O Office District	CD10:68
	Div. 4. CBD-C Central Business District-Core	CD10:70
	Div. 5. CBD-F Central Business District-Fringe	CD10:75
	Div. 6. B-1 Community Business Districts	CD10:79
	Div. 7. B-2 General Business District	CD10:84
	Div. 8. B-3 Highway Business District	CD10:90
	Div. 9. GT Gateway Overlay Districts	CD10:94
	Subdiv. I. In General	CD10:94
	Subdiv. II. DGT Downtown Gateway Overlay District	CD10:94
	Subdiv. III. CGT Commercial Gateway District	CD10:97
	Subdiv. IV. HGT Highway Gateway Overlay District	CD10:100
	Subdiv. V. NGT Neighborhood Node Gateway Overlay District	CD10:104
	Subdiv. VI. Gateway Design Review and Certification of Design Compliance	CD10:107
	Art. VI. Design Review	CD10:109
	Div. 1. Generally	CD10:109
	Div. 2. Downtown Design District	CD10:109
	Art. VII. Industrial Districts	CD10:115
	Div. 1. Generally	CD10:115
	Div. 2. PI Planned Industrial District	CD10:117
	Div. 3. M-1 Light Industrial District	CD10:121
	Div. 4. M-2 Heavy Industrial District	CD10:123
	Art. VIII. Shoreland Management	CD10:125
	Div. 1. Shoreland Overlay District	CD10:125
	Div. 2. Planned Unit Developments (PUDs)	CD10:145
	Div. 3. Stormwater Management	CD10:151
	Art. IX. Floodplain Management	CD10:152
	Div. 1. Generally	CD10:152
	Div. 2. Floodplain District	CD10:152
	Div. 3. Jurisdiction and Districts	CD10:157

Chapter Page

Div. 4. Requirements and Establishment of All Floodplain Districts CD10:159
Div. 5. Railroads, Roads, Bridges, and Public and Private Utilities and Service Facilities CD10:170
Div. 6. Manufactured Homes and Recreational Vehicles CD10:171
Div. 7. Administration CD10:171
Div. 8. Nonconformities CD10:175
Div. 9. Violations and Penalties CD10:176
Div. 10. Amendments CD10:177
Art. X. Standard of General Applicability CD10:177
Div. 1. Generally CD10:177
Div. 2. Special Provisions Applicable to Specific Permitted and Conditional Uses CD10:183
Div. 3. Adult Uses CD10:216
Div. 4. Nonconformities CD10:222
Div. 5. Off-Street Parking CD10:226
Div. 6. Off-Street Loading CD10:236
Div. 7. Signs CD10:240
Div. 8. Landscaping and Screening CD10:260
Div. 9. Performance Standards CD10:266
Div. 10. Site Plan Review CD10:271
Art. XI. Administration and Enforcement CD10:277
Div. 1. Generally CD10:277
Div. 2. Administration CD10:277
Div. 3. Conditional Use Permits CD10:279
Div. 4. Planned Unit Developments CD10:283
Div. 5. Variances CD10:291
Div. 6. Certificate of Occupancy and Building Permits . CD10:295
Div. 7. Enforcement CD10:297
Div. 8. Administrative Interpretations CD10:298
Div. 9. Amendments CD10:300
Div. 10. Appeals CD10:303
Art. XII. Subdivision and Development Regulations (Platting) CD10:305
Div. 1. Generally CD10:305
Div. 2. Procedure CD10:307
Div. 3. Design Standards CD10:311
Div. 4. Data Required for Final Plat CD10:314
Div. 5. Basic Improvements Required CD10:315
Div. 6. Variances CD10:317
Div. 7. Planned Unit Developments (PUD) CD10:318
Div. 8. Registered Land Surveys (RLS) CD10:318
Div. 9. Conformance To Article X (Land Use) CD10:319
Div. 10. Fee CD10:319
Div. 11. Extension of Subdivision Regulations CD10:319

11. Nuisances CD11:1
Art. I. In General CD11:3

Chapter		Page
	Art. II. Specific Nuisances	CD11:10
	Div. 1. Generally	CD11:10
	Div. 2. Health Nuisances	CD11:13
	Div. 3. Noise	CD11:14
	Div. 4. Diseased Trees	CD11:16
12.	Offenses	CD12:1
	Art. I. In General	CD12:3
	Art. II. Offenses Against Peace and Order	CD12:4
13.	Parks and Recreation	CD13:1
	Art. I. In General	CD13:3
	Art. II. Special Events	CD13:10
14.	Streets, Sidewalks and Other Public Places	CD14:1
	Art. I. In General	CD14:3
	Art. II. Right-of-Way Management	CD14:9
	Div. 1. Generally	CD14:9
	Div. 2. Encroachments	CD14:25
	Art. III. Pedestrian Corridor Management	CD14:28
	Art. IV. Landscape Management	CD14:32
	Div. 1. Generally	CD14:32
	Div. 2. Vegetation Maintenance	CD14:34
15.	Taxation	CD15:1
	Art. I. In General	CD15:3
	Art. II. Lodging Tax	CD15:3
	Art. III. Sales and Use Tax	CD15:5
	Art. IV. Food, Beverage and Entertainment Tax	CD15:8
16.	Traffic and Vehicles	CD16:1
	Art. I. In General	CD16:3
	Art. II. Bicycles and Play Vehicles	CD16:5
	Art. III. Snowmobiles	CD16:6
	Art. IV. Utility-Terrain Vehicles and Mini-Trucks	CD16:9
	Art. V. Dockless Scooters	CD16:12
	Art. VI. Parking	CD16:17
17.	Utilities	CD17:1
	Art. I. In General	CD17:5
	Art. II. Water	CD17:13
	Art. III. Wastewater	CD17:17
	Div. 1. Generally	CD17:17
	Div. 2. Enforcement	CD17:27
	Art. IV. Stormwater	CD17:29
	Art. V. Solid Waste	CD17:32
	Art. VI. Service Connections and Equipment	CD17:33
	Art. VII. Accounts, Rates, Billing, and Collection	CD17:37
	Div. 1. Generally	CD17:37
	Div. 2. Delinquent Accounts	CD17:42
Code Comparative Table—2015 Code		CCT:1

Page

Code Comparative Table—Legislation CCT:13

State Law Reference Table SLT:1

Charter Index CHTi:1

Code Index CDi:1

PART I

CHARTER*

Chapter 1. Name, Boundaries, Powers and General Provisions

Sec. 1.01. Name and boundary.
Sec. 1.02. Powers of the city.
Sec. 1.03. Charter a public act.
Sec. 1.04. Wards.

Chapter 2. Form of Government

Sec. 2.01. Form of government.
Sec. 2.02. Council.
Sec. 2.03. Transfer of books.
Sec. 2.04. Compensation; expenses.
Sec. 2.05. General powers and duties.
Sec. 2.06. Prohibitions.
Sec. 2.07. Vacancies, forfeiture of office, filling of vacancies.
Sec. 2.08. Judge of qualifications.
Sec. 2.09. City clerk.
Sec. 2.10. Investigation of city affairs.
Sec. 2.11. Independent audit.
Sec. 2.12. Procedure.
Sec. 2.13. Action requiring an ordinance.
Sec. 2.14. Ordinances in general.
Sec. 2.15. Emergency ordinances.
Sec. 2.16. Codes of technical regulations.
Sec. 2.17. Authentication and recording; codification; printing.
Sec. 2.18. Ordinances left in force.
Sec. 2.19. Official bonds.
Sec. 2.20. Personal financial interest.
Sec. 2.21. Ordinance to make Charter effective.

Chapter 3. City Manager

Sec. 3.01. Appointment; qualifications; compensation of city manager.

***Editor's note—**Printed here is the current Charter of the City of Mankato, Minnesota. Mankato received its original charter on March 6, 1868, which provided for a mayor and three city council members and remained intact until 1952, when the council/manager form of government was approved. The 1952 Charter, as amended through November 27, 2022, is represented below. Amendments to the Charter, through November 27, 2022, and thereafter, are indicated in history notes following amended sections. The absence of a subsequent history note indicates that the provision remains unchanged from the 1952 Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. The title, enactment, severability, repealer, transitional, ratification, publication and effective date provisions have been omitted, and where a section has been amended or repealed by a later provision, only the current language has been printed. Additions made for clarity are indicated by brackets.

Sec. 3.02. Removal.
Sec. 3.03. Acting city manager.
Sec. 3.04. Powers and duties of the city manager.
Sec. 3.05. Purchasing.
Sec. 3.06. Competitive contracts.
Sec. 3.07. Document execution.
Sec. 3.08. Compensation and recognition.

Chapter 4. Administrative Departments

Sec. 4.01. Departments of administration.
Sec. 4.02. Subordinate officers.
Sec. 4.03. Restrictions.
Sec. 4.04. Boards and commissions.

Chapter 5. Initiative, Referendum and Recall of Elective Officers

Sec. 5.01. Recall; method prescribed.
Sec. 5.02. Cause of recall.
Sec. 5.03. Recall elections.
Sec. 5.04. Recall; time limit.
Sec. 5.05. Direct legislation.
Sec. 5.06. Referendum.
Sec. 5.07. Forms.

Chapter 6. Financial Procedures

Sec. 6.00. Generally.
Sec. 6.01. Fiscal year.
Sec. 6.02. Submission of budget and budget message.
Sec. 6.03. Budget message.
Sec. 6.04. Budget.
Sec. 6.05. Capital program.
Sec. 6.06. Council action on budget.
Sec. 6.07. Council action on capital program.
Sec. 6.08. Public records.
Sec. 6.09. Amendments after adoption.
Sec. 6.10. Lapse of appropriations.
Sec. 6.11. Administration of budget.
Sec. 6.12. Contracts.
Sec. 6.13. Collusion with bidder.
Sec. 6.14. Collusion by bidder.
Sec. 6.15. Power to borrow money or incur debt.
Sec. 6.16. Levy and collection of taxes.
Sec. 6.17. Accounts and reports.
Sec. 6.18. Debt not to be increased or credit loaned.
Sec. 6.19. Provisions to be made to pay bonds.
Sec. 6.20. Property subject to taxation.
Sec. 6.21. Accounting practices.

Chapter 7. Elections

Sec. 7.01. General elections.
Sec. 7.02. Special elections.
Sec. 7.03. Primary election.
Sec. 7.04. Vacancy in nomination.
Sec. 7.05. Candidates in general election.
Sec. 7.06. Write-in candidates.
Sec. 7.07. Canvass; general election.
Sec. 7.08. Tie vote.
Sec. 7.09. Elections regulations.

Chapter 8. Assessment Procedures

Sec. 8.01. Assessment authority.
Sec. 8.02. Assessments for services.
Sec. 8.03. Power to purchase property or assignment of liens.
Sec. 8.04. Fees and civil penalties.

Chapter 9. Planning

Sec. 9.01. City planning commission.
Sec. 9.02. Comprehensive plan.
Sec. 9.03. Implementation of the comprehensive plan.

Chapter 10. Miscellaneous Provisions

Sec. 10.01. Power to acquire property.
Sec. 10.02. Franchises.
Sec. 10.03. Municipal utilities.
Sec. 10.04.a. Vacations of public ways, streets and alleys.
Sec. 10.04.b. Vacation of easements on private property.
Sec. 10.05. City attorney.
Sec. 10.06. City records.
Sec. 10.07. Platted property.
Sec. 10.08. Sale or lease of real property.
Sec. 10.09. Saving clause.
Sec. 10.10. Oath of office.
Sec. 10.11. City clerk to administer oaths.
Sec. 10.12. Regular paydays for city employees.
Sec. 10.13. Succession.
Sec. 10.14. General laws.

CHAPTER 1. NAME, BOUNDARIES, POWERS AND GENERAL PROVISIONS

Sec. 1.01. Name and boundary.

The city of Mankato, in the county of Blue Earth, and state of Minnesota, shall, upon the taking effect of this Charter, continue to be a municipal corporation, under the name and style of the city of Mankato, with the boundaries and wards as now or hereafter may be established.

Sec. 1.02. Powers of the city.

Subd. 1. The city shall have all powers which it may now, or hereafter be possible, for a municipal corporation in this State to exercise in harmony with the constitutions of this state and of the United States.

Subd. 2. It is the intention of this Charter that every power which the people of the city of Mankato might lawfully confer upon themselves, as a municipal corporation having "home rule charter," by specific enumeration of this Charter shall be deemed to have been so conferred by the provisions of this section.

Subd. 3. This Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the generality of the power herein sought to be conferred.

Subd. 4. The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

Sec. 1.03. Charter a public act.

This Charter shall be a public act and need not be pleaded or proved in any case. It shall take effect 30 days from and after its adoption by the voters. The Charter may be amended as set forth herein and in state law.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 1.04. Wards.

Subd. 1. The city shall be divided into five wards, to be known simply as Ward 1, Ward 2, Ward 3, Ward 4, and Ward 5.

Subd. 2. Each ward shall be composed of compact, contiguous territory and shall contain as nearly as practicable an equal population. The difference between the ward with the lowest population and the ward with the highest population can be no greater than ten percent of the equal number. If a federal census shows that a ward no longer meets this requirement, the council must change the ward boundaries to achieve compliance within the time-period required by state law. If a ward boundary change places a ward council member's residence in a different ward, the council member will continue in office for the remainder of the term.

Subd. 3. The council shall redistrict the wards of the city within 60 days after the legislature has been redistricted or at least 19 weeks before the state primary election in the year ending in two, whichever is first.
(Ord. No. O-2022-1128-19, 11-28-2022)

CHAPTER 2. FORM OF GOVERNMENT

Sec. 2.01. Form of government.

The form of government established by this Charter shall be known as the "council-manager plan." All discretionary powers of the city, both legislative and executive, shall be exercised by and vested in the city council subject to the initiative, referendum, and recall powers of the people. It shall have complete control over the city administration but shall exercise this control exclusively through the city manager and shall not itself attempt to perform any administrative work.

Sec. 2.02. Council.

Subd. 1. The council shall be composed of a mayor and six council members who shall be eligible to vote in the [state of] Minnesota, be registered to vote in the city, and be a resident of the city. The mayor and one council member shall be elected at large and the other five shall be elected one each from the five wards. The member at large shall act as presiding officer at any council meeting not presided over by the mayor and serve as president of the council. Council members must live within the ward represented when elected and must continue to reside therein during their term unless the boundaries are changed by reapportionment, at which time the council member, otherwise disqualified by the reapportionment, shall be allowed to finish the remainder of their term.

Subd. 2. The terms of the council members in office on January 10, 1973, from Wards 1, 3 and 5 shall expire on the first Monday in January 1975; the terms of the at large council member and the council members from Wards 2 and 4 in office on January 10, 1973, shall expire on the first Monday in January 1977. Thereafter, every council member shall serve for a term of four years and until a successor is elected and qualified. Terms of election following a reapportionment shall be arranged in such a manner that the council members from each ward will continue to have the approximate terms, provided herein, staggered so that three council members (including the at large council member for one such election) will be elected at each future election not affected by reapportionment. The mayor in office on January 10, 1973, shall serve until the first Monday in January 1975. Thereafter, the mayor shall serve for a term of four years and until a successor is elected and qualified.

Subd. 3. The mayor shall be recognized as head of the city government for all ceremonial purposes but shall have no administrative duties.

Subd. 4. During a temporary absence from the city or disability of the mayor, the council member at large shall act as mayor pro tem and shall, during such absence or disability, possess the powers of and discharge the duties of mayor. In the event both the mayor and council member at large are absent from the city or disabled, the city council shall elect one of its members to act as mayor pro

tem who, during such absence or disability, shall possess the powers of and discharge the duties of mayor including acting as the presiding officer at city council meetings. Any such council member elected to serve as mayor pro tem may be removed by majority vote of the council at any time.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.03. Transfer of books.

Every elective and appointive officer shall, at the expiration of term of office, in whatsoever way terminated, turn over to the successor in office, or to some other properly authorized officer, on demand, all the books, papers, files, records, moneys and other property and things whatsoever pertaining to the office or received by reason thereof.

Sec. 2.04. Compensation; expenses.

The council may determine changes in the annual salary of the mayor and council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next succeeding municipal election. The mayor and the council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.05. General powers and duties.

All powers of the city shall be vested in the council except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Sec. 2.06. Prohibitions.

Subd. 1. *Holding other office.* Except where authorized by law, no council member shall hold any other city office or employment during the term for which elected to the council, and no former council member shall hold any compensated appointive city office or employment until one year after the expiration of the term for which elected to the council.

Subd. 2. *Appointments and removals.* Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or any subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

Subd. 3. *Interference with administration.* Except for the purpose of inquiries and investigations under section 2.10, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

Sec. 2.07. Vacancies, forfeiture of office, filling of vacancies.

Subd. 1. Vacancy. A vacancy in the council shall be deemed to exist in the case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new council, or by reason of the death, resignation, removal from office, termination of residency in the city, removal from the ward from which elected, except as provided in section 2.02, continuous absence from the city for more than 90 days, conviction of a felony either before or after qualification for office; or by reason of the failure of any council member without good cause to perform any of the duties of members in the council for a consecutive period of 90 days.

Subd. 2. Procedure to declare the vacancy. In each such case, the council shall by resolution declare such vacancy to exist. If by resignation, the vacancy automatically occurs when an incumbent submits a written resignation to the mayor, city manager, or city clerk, effective on the date specified. If the date is not specified in the resignation, the vacancy is created on the date of submittal. If the date of submittal is unknown, then the vacancy will occur on the date the official receives the written resignation. A vacancy in an office shall be filled by council appointment unless or until an election is held as provided in Subdivision 3. In case of a tie vote on the appointment by the council, the mayor will cast the deciding vote.

Subd. 3. Special election for vacancy.

(a) A special election is required to fill a vacancy when the vacancy has been declared, or has automatically occurred, before the first day to file affidavits of candidacy for the next regular municipal election and more than two years remain in the unexpired term.

(b) When a special election is required under this section, the council must adopt a resolution to set the date for the special election at the first regular, or special meeting, of the council occurring after the vacancy automatically occurs or at the same meeting at which the vacancy is declared. The special election must be held at the earliest date possible under state law related to special elections and candidates must file for office no later than four weeks before the election. If a special election is to occur in the same year as a regular election, the council may, at its own option, schedule the special election to occur in conjunction with the regular municipal election rather than at the earliest date possible under state law for special elections.

(c) The person receiving the highest number of votes cast at a special election shall be elected to the office for the remainder of the unexpired term.

(d) Any vacancy resulting from a recall election or from a resignation following the filing of a recall petition, regardless of amount of time left on the unexpired term, shall be filled by special election.

(e) If a special election is not required by this subdivision, the council may appoint an eligible person to serve until expiration of the position's term or choose to fill the vacancy by special election. Upon notice of an impending resignation, the council may begin the process of determining how to fill the vacancy. No later than 60 days after a vacancy automatically occurs or is declared to exist, the council must appoint an eligible person to fill the vacancy

or schedule a special election to be held in accordance with this section. If the council does neither, the mayor, or acting mayor if the vacancy is in the mayor's position, has seven days to appoint an eligible person to fill the vacancy.

(f) If after 67 days no appointment is made nor an election scheduled, the city clerk must schedule a special election to be held in accordance with this section.

Subd. 4. The person elected or appointed will serve the unexpired term for that office.

Subd. 5. Notwithstanding the requirements in section 2.12 that a quorum of the council consists of four members, if at any time the membership of the council is reduced to less than four, the remaining members may, by majority action, appoint additional members to raise the membership to four.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.08. Judge of qualifications.

The council shall be judge of the election and qualifications of its members and of the grounds for forfeiture of their office, as set forth in state law and, for that purpose, shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisions made by the council under this section shall be subject to review by the courts.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.09. City clerk.

The council shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep the journal or minutes of its proceedings, and perform such other duties as are assigned by this Charter or by the council. Upon consultation with the city manager, the council may designate another city employee (except the city manager or a council member) to act as secretary.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.10. Investigation of city affairs.

The council and any officer or officers formally authorized by it shall have power to make investigations into the city's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers. The council may at any time provide for an examination or audit of the account of any officer or department of the city government and shall provide for the payment of an accountant's service to perform such examination or audit.

Sec. 2.11. Independent audit.

The council shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public

accountant or firm of such accountants who have no personal interest in the fiscal affairs of the city government or any of its officers. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Sec. 2.12. Procedure.

Subd. 1. *Meetings.* The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of three or more members; provided, however, that any regular or special meetings of the council shall be called and held in a manner conforming with state law.

Subd. 2. *Rules and journal.* The council shall determine its own rules and order of business and shall provide for keeping a journal or minutes of its proceedings. This journal or minutes shall be a public record.

Subd. 3. *Voting.* Voting on resolutions and ordinances shall be by roll call and the ayes and nays shall be recorded in the journal or minutes. All votes taken during a meeting governed by either M.S.A. § 13D.02 or 13D.021 must be conducted by roll call so that each member's vote on each issue can be identified and recorded. All other votes may be taken without the necessity of a roll call, unless otherwise required of Charter cities in state law; provided, however, that the vote shall be taken so as to allow the minutes to reflect which council members voted in favor and which voted against the matter voted upon. Four members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of four or more members of the council.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.13. Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the city council shall be by ordinance which:

(1) Adopt or amend an administrative code or establish, alter or abolish any city department or agency;

(2) Establish a rule or regulation for violation of which a fine or other penalty may be imposed;

(3) Levy taxes, except as otherwise provide in Chapter 6 with respect to the property tax levied by adoption of the budget;

(4) Grant, renew or extend a franchise;

(5) Convey or lease or authorize the conveyance or lease of any lands of the city, except as provided in section 10.08 hereof; and

(6) Adopt with or without amendment ordinances proposed under the initiative power; and

(7) Amend or repeal any ordinance previously adopted, except as otherwise provided in Chapter 5 with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.
(Ord. No. O-2023-1211-7, 12-11-2023)

Sec. 2.14. Ordinances in general.

Subd. 1. *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Mankato hereby ordains …." Any ordinance which repeals or amends an existing ordinance or part of the city Code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

Subd. 2. *Procedure.* An ordinance may be introduced by any member at any regular, or special meeting, of the council. Upon introduction of any ordinance, the city clerk shall make available a copy to each council member, and the manager shall file a reasonable number of copies in the office of the city clerk and such other public places as the council may designate and shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council. Other than emergency ordinances addressed in section 2.15 herein or the exceptions stated in law, if a city posts ordinances on the city's website, then it must also post proposed ordinances on the website at least ten days before the council meeting at which the proposed ordinance is scheduled for a final vote. The public hearing shall follow the publication by at least ten days, may be held separately or in connection with a regular or special council meeting, and may be adjourned from time to time. Other than emergency ordinances addressed in section 2.15 herein or the exceptions stated in law, if a city has an electronic notification system, the city must notify any person that has signed up for e-mail notification of proposed ordinances at least ten days before the council meeting at which the proposed ordinance is scheduled for a final vote. After the hearing, the council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the council may not adopt it until the ordinance, or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the clerk shall have it published again together with a notice of its adoption.

Subd. 3. *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

Subd. 4. *"Publish" defined.* As used in this section, the term "publish" means to print in the official newspaper of the city the ordinance or brief summary thereof and the places where copies of it have been filed and the time when they are available for public inspection.

Subd. 5. *Official paper.* The council shall annually provide by resolution for the publication of all matters required by this Charter to be published, and to that end shall annually designate the official paper in which all such publication shall be made.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.15. Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances, but such ordinances may not levy taxes or grant, renew or extend a franchise. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to section 6.09 shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.16. Codes of technical regulations.

The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances, except that:

(1) The requirements of section 2.14 for distribution and filing of copies of the ordinance shall not be construed to include copies of the code of technical regulations as well as of the adopting ordinance as it shall be necessary only that a copy of such code of technical regulations be on file with the city clerk and available for inspection at the city clerk's office.

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk pursuant to section 2.17, subdivision 1.

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable charge. The term "technical regulation" means a document which lays down characteristics or related processes and methods, including the applicable administrative provisions, with which compliance is mandatory.
(Ord. No. O-2022-1128-19, 11-28-2022; Ord. No. O-2023-1211-7, 12-11-2023)

Sec. 2.17. Authentication and recording; codification; printing.

Subd. 1. The city clerk must maintain a list of all ordinances adopted by the council.

Subd. 2. The council shall provide for the general codification of all city ordinances having the force and effect of law. The ordinance Code must be maintained in a form that allows continuous revision. A Code amendment must be incorporated into the Code as soon as practicable after it is

effective. After each section, a note must be placed indicating the legislative source of the section and any amendments. This compilation shall be known and cited as the "Mankato City Code." The city clerk must have copies of the Code available.

Subd. 3. Ordinances granting franchises, disposing of public property, enacting zoning designations of land, and other ordinances that are not of a general and permanent nature need not be included in the ordinance Code. At the council's discretion, a table of all or some of these ordinances may be included, or their text may be included as appendices.

Subd. 4. After publication of the Code, all ordinances and Charter amendments shall be printed in substantially the same style as the Code currently in effect. At least once a year, the city clerk shall incorporate with the body of the text of the Mankato City Code the amendments made to any of the ordinances contained therein, within the previous year, and omit any sections or ordinances expressly repealed. Such additions and deletions shall be printed and maintained in the same form as the Mankato City Code, in such a manner that they may be inserted in the existing Code. All chapters and sections of the Mankato City Code shall retain the numbers and titles given them in the Mankato City Code until changed by the council.
(Ord. No. O-2022-1128-19, 11-28-2022; Ord. No. O-2023-1211-7, 12-11-2023)

Sec. 2.18. Ordinances left in force.

Nothing herein shall be understood or construed as repealing, amending, or modifying any city ordinance, resolution, rule or order, which may be in force in the city at the time this Charter goes into effect and becomes operative, except so far as the same may be incompatible with any of the provisions of this Charter, or with any state law specific to charter cities, but the same shall continue in full force until repealed, amended, or modified by the council hereinbefore provided for.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.19. Official bonds.

Officers and employees of the city required by ordinance or by law to supply a bond must, before entering upon the duties of their respective office or employment, give a corporate surety bond to the city in such form and in such amount as may be fixed by the council as security for the faithful performance of their official duties and the safekeeping of the public funds. Such bonds may be either individual or blanket bonds in the discretion of the council. They will be approved by the council, and approved as to form by the city attorney, and filed with the city clerk. The premiums on the bonds will be paid by the city.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 2.20. Personal financial interest.

All city officers or employees shall be subject to the provisions of Minnesota Statutes pertaining to conflicts of interest, including M.S.A. §§ 471.87 and 471.88 as they may be amended from time to time, in regard to any personal financial interest in sales, leases, or contracts of the city.

Sec. 2.21. Ordinance to make Charter effective.

The council is hereby empowered to and it shall, by ordinance, make such regulations as may be necessary to carry out and make effective the provisions of this Charter.

CHAPTER 3. CITY MANAGER

Sec. 3.01. Appointment; qualifications; compensation of city manager.

The city manager is an employee at will and is appointed for an indefinite term and may be removed by the council at any time with or without cause. The council shall fix the city manager's compensation. The city manager shall be appointed solely on the basis of training, experience, and executive and administrative qualifications. The city manager must be a United States citizen. The manager shall be responsible to and serve at the pleasure of the council.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 3.02. Removal.

If council takes council action to remove the city manager, the city manager may demand written charges and a public hearing before removal is effective. The city manager must submit the written demand within 15 days after council action. The public hearing must be held before the council within 30 days after the city manager's demand. The council must provide written charges to the city manager at least ten days before the hearing. The council may suspend the city manager from office and appoint an acting city manager before removal takes effect. The city manager will be paid the city manager's regular salary during suspension pending removal or after removal and pending the public hearing. After the hearing, the council may either reinstate the city manager or make the removal final. If removed, the city manager has no right to appeal and no further right to receive the city manager's salary.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 3.03. Acting city manager.

Subd. 1. By letter filed with the city clerk, the manager may designate, subject to approval of the council, a qualified city administrative officer to exercise the powers and perform the duties of manager during a temporary absence or disability. During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or the disability shall cease.

Subd. 2. Notwithstanding subdivision 1 of this section, the city council may itself appoint or designate an Acting city manager during a period of vacancy in the office, a temporary absence from the city, temporary disability or period during which the manager is suspended.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 3.04. Powers and duties of the city manager.

The city manager shall be the chief administrative officer of the city and shall be responsible to the council for the administration of all city affairs placed in the manager's charge by or under this Charter. The manager shall have the following powers and duties; to:

(1) Appoint and, except as herein provided, remove all heads of departments, and all subordinate officers and employees in the departments, all appointments to be upon merit and fitness alone, and shall authorize any administrative officer who is subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law;

(3) Attend all council meetings and shall have the right to take part in discussion but may not vote;

(4) See that all laws, provisions of this Charter and acts of the council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed;

(5) Prepare and submit the annual budget and capital program to the council;

(6) Submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;

(7) Make such other reports as the council may require concerning the operations of city departments, offices and agencies subject to the direction and supervision of the city manager;

(8) Keep the council fully advised as to the financial condition and needs of the city and make such recommendations to the council concerning the affairs of the city as deemed desirable;

(9) Be recognized by the Governor for the purposes of military law, and be in charge of emergency operations, unless prohibited by statute;

(10) Recommend to the council for adoption such measures as they may deem necessary for the welfare of the people and the efficient administration of city affairs.

(11) Perform such other duties as are specified in the Charter or may be required by the council. (Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 3.05. Purchasing.

Subd. 1. The city manager is the city's chief purchasing agent. The city manager may make purchases or contracts when the amount does not exceed the amount at which competitive bids are required by law, unless the council adopts an ordinance establishing a limit that is less than the competitive bidding threshold, but no less than $100,000.00. In addition, the city manager may make purchases or contracts exceeding the limit established under this subdivision if (a) the item is

identified in the approved city budget, (b) the amount is no greater than the budgeted amount, (c) the item is purchased through a cooperative purchasing agreement with another governmental agency, and (d) the council is notified of the purchase within a reasonable time.

Subd. 2. The city manager may also make emergency purchases when the immediate procurement is essential to prevent delays in the work of the city that may vitally affect the life, health, or convenience of the public or the protection of property. The city manager must inform the council before making the emergency purchase, must prepare a full written report of the circumstances as soon as possible after the emergency purchase, and must publicly inform the council at the first council meeting after the emergency purchase. The written report must be available for public inspection.

Subd. 3. Other purchases or contracts may be made only by the council after receiving the city manager's recommendation.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 3.06. Competitive contracts.

City contracts must be made in compliance with state law. When sealed bids are required, the city manager or the city manager's designee must advertise for bids in the official means of publication at least one week before the bids are due. The council may adopt an emergency ordinance waiving this publication requirement. The specifications for sealed bids must be drafted to prevent fraud and favoritism but may include reasonable requirements related to legitimate public concerns. The council may exercise reasonable discretion to award the contract in the best interests of the city, considering such factors as price, quality, experience, suitability, availability, compatibility, efficiency, and overall best value. The council may by ordinance adopt additional regulations for making city contracts.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 3.07. Document execution.

Except as otherwise provided in this Charter, the mayor and city manager sign city documents that require approval of the council, and the city manager signs city documents that involve matters that are within the city manager's power. The city manager may delegate the city manager's authority in writing.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 3.08. Compensation and recognition.

The council may approve a comprehensive compensation program for city employees, including the city manager. The compensation program may include non-monetary benefits, such as city employee and community volunteer recognition programs and city employee preventative health and wellness programs.
(Ord. No. O-2022-1128-19, 11-28-2022)

CHAPTER 4. ADMINISTRATIVE DEPARTMENTS

Sec. 4.01. Departments of administration.

The council may create such departments, divisions, and bureaus for the administration of the city's affairs as may seem necessary, and from time to time alter their powers and organization. It shall, in conjunction with the city manager, prepare a complete administrative code for the city and enact it in the form of an ordinance which may be amended from time to time by ordinance.

Sec. 4.02. Subordinate officers.

There shall be such city officers subordinate to the city manager as the council may create by ordinance. All employees shall be subject to an employee relationship policy or labor relations contract which shall be adopted by the council.

Sec. 4.03. Restrictions.

Elected and appointed or employed persons in a position of authority to exercise discretion in the selection and appointment of city employees, shall not hire, reward or promote persons bearing the relationship of husband, wife, parent, child, brother, or sister, nor engage in other forms of special favoritism.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 4.04. Boards and commissions.

The council shall have power by ordinance to create, and to appoint members of such advisory boards and commissions as required by statute and as may be deemed necessary to advise and assist the council and the administrative officers of the city. The city manager may be designated by the council as an ex officio member of any such board or commission.
(Ord. No. O-2022-1128-19, 11-28-2022)

CHAPTER 5. INITIATIVE, REFERENDUM AND RECALL OF ELECTIVE OFFICERS

Sec. 5.01. Recall; method prescribed.

The holder of any elective office may be removed at any time by the electors of the city registered to vote under state law for a successor of such incumbent in the following manner:

(1) *Committee to institute action.* Any five registered voters who are constituents of the officer of the city whose recall is proposed may form themselves into a committee for the purpose of bringing about the recall of any elected officer of the city. The committee shall certify to the city clerk the name of the officer whose removal is sought, a statement of the grounds for removal in not more than 200 words, and their intention to bring about such recall. The certificate must state grounds for removal, which constitute malfeasance or nonfeasance during the term of office in the performance of the duties of the office or conviction during the term of office of a serious crime. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

(2) *Recall petitions.* The petition for the recall of any official shall consist of a certificate identical with that filed with the city clerk together will all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature shall be in substantially the form set forth in Appendix A. All signers must include their residence address and the date of signing. Every person signing the petition must do so in the presence of the person circulating the petition.

(3) *Filing of petition.* Within 30 days after the filing of the original certificate, the committee shall file the completed petition in the office of the city clerk. The city clerk shall examine the same within the next 20 days and shall attach to the petition a certificate showing the result of the examination. If, by the city clerk's certificate, the petition is shown to be insufficient, the city clerk shall so notify one or more members of the committee, and the petition may be amended within ten days from the date of such notification. The city clerk shall, within 20 days after such amendment, make like examination of the amended petition, and if the certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect.

If the petition is deemed sufficient, the city clerk shall submit the same to the council without delay and must also notify the person sought to be recalled in writing of the sufficiency of the petition. Thereupon, the council shall order the same filed. If the officer sought to be removed does not resign within five days after the filing of the petition, the council shall, by Resolution, at its next meeting, fix a date for holding of a special recall election to take place, the election to be held at the earliest date permissible under state law, provided that, if any other municipal election is to occur within 60 days from the date, the council shall provide for the holding of the recall election at that time.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 5.02. Cause of recall.

In the call for the election, there shall be given the statement of the grounds for the recall of the officer, as set forth in the recall petition, and in the call, in not more than 200 words, the officer may justify his or her course in office.

Sec. 5.03. Recall elections.

Subd. 1. *Recall.* The city clerk shall give public notice of the time and place of holding such election, and the same shall be conducted, except as hereinafter provided, returns be made, and the result thereof declared, in all respects as in other city elections. Only registered voters in the constituency of the elected officer whose recall is petitioned shall be permitted to vote. The form of the ballot at such election shall be as near as may be as follows: "Shall A be recalled?", the name of the officer whose recall is being sought being inserted in the place of A, and the electors shall be permitted to vote separately "yes" or "no" upon this question. In case of a majority of those voting for and against the recall of any official shall vote in favor of recalling such official, the officer shall be thereby removed from office.

Subd. 2. *Election to fill recall vacancy.* In the event an officer has been recalled, the resulting vacancy shall be filled by special election. The special election shall occur and be conducted in the same manner as other special elections to fill vacancies on the council except that a special election shall be held without regard to the amount of time remaining on the recalled official's term of office. The recalled officer shall not be a candidate at such special election and shall be ineligible under any circumstances to hold the office from which he or she was recalled until the next general election for such office.

Sec. 5.04. Recall; time limit.

No recall petition shall be filed against any officer until the officer has held office at least three months.

Sec. 5.05. Direct legislation.

The people of the city reserve to themselves the powers of initiative and referendum. Initiative is the process for voters to propose and adopt an ordinance. Referendum is the process to require an ordinance passed by the council to be referred to the voters for approval or disapproval. These powers must be exercised in compliance with this Charter and may be exercised only by city residents who are eligible voters under state law.

Subd. 1. *Initiation of ordinances.* Any five registered voters may form themselves into a committee for the initiation of any ordinance creating or establishing a general rule for the conduct of city affairs or a penal ordinance prohibiting certain conduct inimical to the public welfare. No ordinance shall be initiated hereunder that would apply to specific administrative acts, the exercise of existing grants of authority or discretionary acts such as, without limitation by way of enumeration, settlement of lawsuits, entering of contracts, acceptance or rejection of bids, sales of bonds, appointment of city officials, levying of taxes, granting of licenses and permits, the adoption of budgets, approval or disapproval of plats, variances, conditional use permits, zoning or rezoning requests, laying out of streets or like, specific administrative or quasi-judicial acts dealing with the exercise of authority in the specific instance. After formulating their ordinance, they shall file a certified copy thereof with the city clerk together with their names and addresses as members of such committee. They shall also attach a verified copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors therefor.

Subd. 2. *Form, conditions, verification, certification and filing of petition.* The petition for the adoption of any ordinance shall consist of the ordinance, together with all the signature papers and affidavits thereto attached. The provisions of section 5.01 hereof respecting the forms and condition of the petition, the mode of verification, certification and filing shall be substantially followed, with such modification as the nature of the case requires.

Subd. 3. *Fifteen percent petition.* If the petition be signed by registered voters equal in number to 15 percentum of the entire number of registered voters in the city of Mankato, and contains a request that such ordinance be submitted forthwith to a vote of the people at a special election, then the council shall either:

(a) Pass the ordinance without alteration within 20 days after attachment of the city clerk's certificate of sufficiency to the petition; or

(b) The ordinance must be considered at the earliest date permissible under state law; unless a regular municipal election is to occur within 60 days after such certification, in which case it shall be submitted at such election; or

(c) In case the council passes the proposed ordinance with amendments and at least four-fifths of the committee of petitioners do not express their dissatisfaction with such amended form by a certificate filed with the city clerk within ten days from the passage thereof by the council, then the ordinance need not be submitted to the electors.

Subd. 4. *Publication of popular ordinance.* Whenever any ordinance is to be submitted to the voters of the city at any election, the council shall either cause the ordinance to be printed and mailed by the city clerk with a sample ballot to each voter at least ten days prior to the election or order such ordinance to be printed in the official newspaper and published in like manner as ordinances adopted by the council.

Subd. 5. *Election.* The ballots used in voting upon such proposed ordinance shall contain the words "for the ordinance" (stating the nature of the proposed ordinance) and "against the ordinance" (stating the nature of the proposed ordinance). If a majority of the electors voting on the proposed ordinance vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city.

Subd. 6. *Several ordinances at one election.* Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section.

Subd. 7. *Repeal of popular ordinance.* The council may submit a proposition for the repeal of any such ordinance, or for amendment thereto, to be voted upon at any general municipal election; and should such proposition receive a majority of the votes cast at such election, such ordinance shall be repealed or amended accordingly. Initiated ordinances adopted by the electors shall be published and may be amended or repealed by the council as in the case of other ordinances.

(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 5.06. Referendum.

Subd. 1. No ordinance passed by the council shall go into effect before 30 days from the time of its publication, except when otherwise required by the general laws of the state, or by the provisions of this Charter respecting street improvements and except an ordinance for the immediate preservation of the public peace, health and safety, which contains a statement of its urgency, and is passed by a five-sevenths vote of the council; provided that no grant of any franchise shall be construed to be urgent. Franchises shall be subject to the referendum vote herein provided. If during the 30 days a petition signed by registered voters of the city equal in number to at least 15 percentum of the entire number of registered voters in the city protesting against the passage of such ordinance be presented to the council, the same shall thereupon be suspended from going into operation provided the ordinance which is the subject of the petition would have properly been the subject of an initiative petition under section 5.05 of this Charter. It shall be the duty of the council to reconsider such ordinances, and if the same be not entirely repealed, the council shall submit the ordinance as provided in section 5.05 of this Charter, to a vote of the electors of the city, either at the next general

municipal election or at a special election called for that purpose and at a date allowed under state law. Such ordinance shall not become operative unless a majority of the electors voting on the same shall vote in favor thereof. The provisions of sections 5.01 and 5.05 respecting the formation of committees to institute action and initiate ordinances, and respecting forms and conditions of the petition, the mode of verification, certification and filing shall be substantially followed, with such modifications as the nature of the case requires.

Subd. 2. Any ordinance that the electors of the city shall have authority to enact, the council may of its own motion submit to the electors for adoption or rejection at a general or special municipal election in the same manner and with the same force and effect as is provided for ordinances submitted on petition under section 5.05 of this Charter.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 5.07. Forms.

Subd. 1. Each certificate affidavit filed by a committee under Chapter 5 must be substantially in the form attached as Appendix A-1.

Subd. 2. Each signature page for a recall petition must be substantially in the form attached as Appendix A-2.

Subd. 3. Each signature page for a referendum petition must be substantially in the form attached as Appendix A-3.

Subd. 4. Each signature page for an initiative petition must be substantially in the form attached as Appendix A-4.

Subd. 5. Each affidavit attached to a signature page must be substantially in the form attached as Appendix A-5.
(Ord. No. O-2022-1128-19, 11-28-2022)

CHAPTER 6. FINANCIAL PROCEDURES

Sec. 6.00. Generally.

The council has full authority over the city's financial affairs and must use sound discretion in exercising this authority. The council must provide for the collection of revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public funds. The city must spend public funds only for public purposes, and the council may adopt policies establishing guidelines regarding which expenditures qualify as having a public purpose consistent with Minnesota law.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 6.01. Fiscal year.

The fiscal year of the city shall begin on the first day of January and end on the last day of December of each year or as established by state statute.

Sec. 6.02. Submission of budget and budget message.

On or before the first regular council meeting in the fourth month before the beginning of the fiscal year, the manager shall submit to the council a budget for the ensuing fiscal year and an accompanying message.

Sec. 6.03. Budget message.

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the manager deems desirable.

Sec. 6.04. Budget.

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the manager deems desirable or the council may require. In organizing the budget, the manager shall utilize the most feasible combination of expenditure classification by fund organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures including debt service, for the ensuing fiscal year; and shall be so arranged as to show figures for budgeted income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure; and

(3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition; subsidiary budgets for each utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income plus surplus.

Sec. 6.05. Capital program.

Subd. 1. *Submission to council.* The manager shall prepare and submit to the council a capital program at least three months prior to the final date for submission of the budget.

Subd. 2. *Contents.* The capital program shall include:

(a) A clear general summary of its contents;

(b) A list of all capital improvements which are proposed to be undertaken with appropriate supporting information as to the necessity for each improvement;

(c) Cost estimates, method of financing, and recommended time schedules for each such improvement; and

(d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

Subd. 3. *Revision.* The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Sec. 6.06. Council action on budget.

Subd. 1. *Notice and hearing.* The council shall publish in one or more newspapers of general circulation in the city a notice stating:

(a) The times and places where copies of the message and budget are available for inspection by the public; and

(b) The time and place, not less than one week after such publication, for a public hearing on the budget.

Subd. 2. *Amendment before adoption.* After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.

Subd. 3. *Adoption.* The council shall adopt a preliminary budget and proposed property tax levy on or before the date set by M.S.A. ch. 275, as it may be amended from time to time. The council shall adopt a final levy, in an amount not to exceed the preliminary levy, and a final budget on or before the date set by M.S.A. ch. 275, as it may be amended from time to time. If the council fails to adopt the budget by these dates, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year as to the total amount, the council having the power to change departmental totals only. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

Subd. 4. *Budget enforcement.* The city manager must enforce the budget. The city manager may transfer uncommitted funds in the general fund within a department or division. The city manager may not approve an expenditure unless there are sufficient funds to pay for it. This is determined by deducting the total actual and expected expenditures from the actual and expected revenues plus allocated surplus. The city manager may authorize certain employees to make purchases and to approve claims for payment. An obligation incurred by a city employee that does not comply with this Charter or that exceeds the employee's authority is the employee's personal obligation, unless ratified by the city manager or council.

Subd. 5. *Contingency amount in budget.* The council may include a contingency amount in the budget that does not exceed ten percent of the total. The council may transfer funds from the contingency amount to another line item only by approval of at least five members. The amount transferred may be used only for the purpose designated.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 6.07. Council action on capital program.

Subd. 1. *Notice and hearing.* The council shall publish in one or more newspapers of general circulation in the city the general summary of the capital program and a notice stating:

(a) The times and places where copies of the capital program are available for inspection by the public; and

(b) The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

Subd. 2. *Adoption.* The council by resolution shall adopt the capital program with or without amendment along with the annual budget in December of each year.
(Ord. No. O-2023-1211-7, 12-11-2023)

Sec. 6.08. Public records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the city.

Sec. 6.09. Amendments after adoption.

Subd. 1. *Supplemental appropriations.* If during the fiscal year the manager certifies that there are available revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Subd. 2. *Emergency appropriations.* To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of section 2.15. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency debt certificates which may be renewed from time to time, but the emergency debt certificates and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

Subd. 3. *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, the manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

Subd. 4. *Transfer of appropriations.* At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and upon written request by the manager, the council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

Subd. 5. *Limitations; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Sec. 6.10. Lapse of appropriations.

Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

Sec. 6.11. Administration of budget.

Subd. 1. Payments and obligations prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the manager or the manager's designee first certified that there is a sufficient unencumbered balance in such allotment or appropriation, and that sufficient funds therefrom are or will be available to cover the claim or meet the obligations when it becomes due and payable. Any authorization of payment or incurring or obligation in violation of the provision of this Charter shall be void and any payments so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and the officer shall also be liable to the city for any amount so paid. However, except where prohibited by law, the council may make contracts by resolution extending into the future beyond the period of annual appropriations.

Sec. 6.12. Contracts.

All contracts shall be made in conformity with the provisions of applicable federal and state laws, city ordinances and this Charter.

Sec. 6.13. Collusion with bidder.

Any officer of the city or of any department thereof who shall aid or assist any bidder in securing a contract to furnish labor, material or supplies at a higher price than that proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information or who shall willfully mislead any bidder in regard to the character of the material or supplies of a quality inferior to those called for by any contract, or who shall knowingly certify to a greater amount of labor performed or to the receipt of a greater amount or different kind of material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office.

Sec. 6.14. Collusion by bidder.

If, at any time, it is found that the person to whom a contract has been awarded has, in presenting any bid or bids colluded with any other party or parties for the purpose of preventing any other competing bids being made, or has entered into an agreement by which the bidder made a higher or lower bid than some other person for the purpose of dividing the contract or profits therefrom between two or more bidders, then the contract so awarded shall be null and void, and the council shall advertise for new bids for the work, or provide for such work to be done by the proper department or officer.

Sec. 6.15. Power to borrow money or incur debt.

Except as provided in section 6.09(2), no obligations shall be issued to pay current expenses, but the council may issue and sell obligations for any other municipal purpose in accordance with law and within the limitations prescribed by law. The approval of the majority of the electors of the city voting on the questions at a general or special election shall be required for all such obligations issued and sold in excess of a sum equal to one-fourth of one (¼ of 1) percent of the assessed valuation of the city in any calendar year, except in the case of obligations for which an election is not required by this Charter or by state law, and except for obligations issued for a project required pursuant to a court order, or a valid order of a state or federal agency.

Sec. 6.16. Levy and collection of taxes.

The council may provide by ordinance for a system of local taxation, to the extent permitted by state law. On or before the date set by M.S.A. ch. 275, as it may be amended from time to time, the council shall levy by resolution the taxes necessary to meet the requirements of the budget for the ensuing fiscal year. The city clerk shall transmit to the county financial officer annually, on or before the date set by M.S.A. ch. 275, as it may be amended from time to time, a statement of all taxes levied, and such taxes shall be collected, and the payment thereof be enforced with and in like manner as state and county taxes. No tax shall be invalid by reason of any informality in the manner of levying the same nor because the amount levied shall exceed the amount required to be raised for the special purposes for which the same is levied, but in that case the surplus shall go into the fund to which such tax belongs.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 6.17. Accounts and reports.

The city manager shall be the responsible accounting officer of the city and of every branch thereof, and the council may prescribe and enforce proper accounting methods, forms, blanks, and other devices consistent with the law, this Charter, and the ordinances in accordance with it. The city manager shall submit to the council a statement each month showing the amount spent or chargeable against each of the annual budget allowances and other information as the council may require. At least quarterly, the city manager shall submit a statement showing the amount of money in the custody of the city finance director, and the status of all funds. Once each year, on or before

June 30, the city manager shall submit a comprehensive annual financial report to the council covering the entire financial operations of the city for the past year. This report shall be submitted in accordance with the generally accepted accounting procedures.
(Ord. No. O-2022-1128-19, 11-28-2022; Ord. No. O-2023-1211-7, 12-11-2023)

Sec. 6.18. Debt not to be increased or credit loaned.

The debt of the city shall not be increased, nor shall any new bonds of the city be issued except as provided in this Charter or, with respect to industrial revenue bonds by state law, nor shall the city loan its credit, become a stockholder or make contributions or donations to any person, company or corporation, except as herein provided.

Sec. 6.19. Provisions to be made to pay bonds.

The council is authorized to provide, by taxation, for the prompt payment of interest upon indebtedness, and for meeting bonds of the city at maturity whether heretofore or hereafter issued.

Sec. 6.20. Property subject to taxation.

All property in the city, taxable under the laws of the state, shall be subject to taxation for the support of the city government and the payment of its debts and liabilities, and the same shall be assessed as provided for by law, and this Charter.

Sec. 6.21. Accounting practices.

In its accounting practices, the city shall maintain such fund categories as are required by the office of the state auditor of Minnesota and the Governmental Accounting Standards Board. Money shall not be transferred from one fund to another fund if such transfer would be prohibited by law.

CHAPTER 7. ELECTIONS

Sec. 7.01. General elections.

The general city election shall be held on the first Tuesday after the first Monday of November in each even-numbered year.

Sec. 7.02. Special elections.

The council may, by resolution, adopted by the affirmative vote of a majority of its members, order a special election for any purpose, except as prohibited by state law.

Sec. 7.03. Primary election.

Subd. 1. Nominees for elective city offices shall be selected by a primary election, and no nominee other than the nominees selected by such primary election shall be placed on the general election ballot. A primary municipal election shall be held on the date established by state law of any year in which a municipal general election is to be held for the purpose of electing officers, at the

same place or places as general elections are held and like officers shall preside at such elections. The primary election shall be conducted, and the returns thereof made in the manner provided for the state primary election so far as practicable.

Subd. 2. Not more than 70 nor less than 56 days before the primary election, any eligible person who desires to have his or her name placed on the primary ballot as a candidate for any elective city office shall file an affidavit of candidacy with the city clerk which affidavit shall be substantially the same form as required of candidates for state offices. At the time of filing such affidavit, each candidate shall pay to the city clerk a filing fee of $20.00 or shall file the petition as required by statute.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 7.04. Vacancy in nomination.

A vacancy in a nomination exists when, after the primary election, any candidate who was nominated to office dies, withdraws, or for any other reason ceases to be the nominated candidate for that office, or when, on the last day of filing or after the closing of filing for an office for which one or two candidates filed, any such candidate dies or withdraws. When a vacancy in a nomination occurs, a nomination to fill the vacancy shall be made in the manner provided for filling vacancies after the state primary election.

Sec. 7.05. Candidates in general election.

The two candidates for each office who receive the highest number of votes shall be the nominees for the office named, and their names shall be certified by the council to the city clerk who shall place the names on the general ballot without partisan designation and without payment of an additional fee.

Sec. 7.06. Write-in candidates.

Except in primary elections, spaces shall be provided for any office equal in number to be voted for wherein the voter may write the name of the person for whom the voter may wish to vote.

Sec. 7.07. Canvass; general election.

The council shall meet and canvass the election returns at the time specified in Minnesota Statutes and must declare the official results and file a statement of the declaration with the city clerk. This statement must include:

(1) The total number of good ballots cast;

(2) The total number of spoiled or defective ballots;

(3) The correct vote for each candidate, with an indication of those who were elected or nominated;

(4) A correct copy of the ballots used;

(5) The names of the judges and clerks of election; and

(6) All other information as is pertinent.

The city clerk must notify all persons elected or nominated of their election, or nomination. The ballots and the results must be preserved in accordance with the records retention schedule and state law. The city clerk is the final custodian of all ballots or returns for the city.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 7.08. Tie vote.

When two or more persons shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the council at such time, place, and in such manner as it may direct.

Sec. 7.09. Elections regulations.

The provisions of the state law relating to the registration of voters, the qualifications of electors, preparing the ballots, the manner of voting, the duties of election officers, re-counts and all other particulars in respect to the management of elections so far as they may be applicable shall govern all such elections.

CHAPTER 8. ASSESSMENT PROCEDURES

Sec. 8.01. Assessment authority.

The city shall have power to make all improvements authorized by state statutes and may defray part or all of the costs of such improvements by special assessments. The procedures set forth in the state statutes pertaining to improvements or to such assessments shall be followed.

Sec. 8.02. Assessments for services.

The council may provide by ordinance that the cost of sprinkling, snow, or rubbish removal, or of any other service to streets, sidewalks, or other public property, or the cost of any service to other property undertaken by the city may be assessed against the property benefited and collected in like manner as are special assessments.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 8.03. Power to purchase property or assignment of liens.

In order to protect the lien of the city on special assessments, the council shall, whenever necessary, have power to purchase any lot or parcel of land at any tax sale or take an assignment of any lien on same against which the city has a lien for special assessment, and may sell and assign any such lien held by the city, and otherwise take action as will protect the interest of the city.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 8.04. Fees and civil penalties.

The council may provide by ordinance that fees, civil penalties, and late payment penalties imposed by the city may be assessed against (a) property that was the subject matter, or related to the subject matter, of the fees and penalties, or (b) property that was the location of an activity, proposed use, city service, or other circumstance that resulted in the fees and penalties. The ordinance must require the city to attempt to obtain voluntary payment of the fees and penalties before imposing the assessments. The ordinance must require the city to give notice and an opportunity to be heard to the property owner listed on the official tax records before imposing the assessments. The assessments will be collected like special assessments.
(Ord. No. O-2022-1128-19, 11-28-2022)

CHAPTER 9. PLANNING

Sec. 9.01. City planning commission.

There shall be a city planning commission consisting of six members appointed by the council for terms of three years. The terms shall be staggered, one-third of the members leaving office each year. In addition, the council shall appoint one of its own members to such commission as a voting member. However, no other city officer shall be a member of this commission. The members of such commission shall serve without compensation. The commission may make recommendations to the city manager and the city council on all matters affecting the physical and ecological development of the city, shall be consulted on the comprehensive plan and the implementation thereof as provided in sections 9.03 and 9.04, and shall exercise all other responsibilities as may be provided by law.

Sec. 9.02. Comprehensive plan.

Subd. 1. *Content.* The council shall adopt, and may from time to time modify, a comprehensive plan setting forth in graphic and textual form policies to govern the future development of the city. Such plan shall cover the entire city and all its functions.

Subd. 2. *Adoption.* Upon receipt from the city manager of a proposed comprehensive plan or proposed modification of the existing plan, the council shall refer such proposal to the city planning commission which shall within a time specified by the council report its recommendations thereon. After receipt of the recommendations of the planning commission, the council shall hold a public hearing on the proposed comprehensive plan or modifications thereof and shall thereafter adopt it by resolution with or without amendment.

Subd. 3. *Effect.* The comprehensive plan shall serve as a guide to all future council action concerning land use and development regulations, urban renewal programs, and expenditures for capital improvements.

Sec. 9.03. Implementation of the comprehensive plan.

Subd. 1. *Land use and development regulations.* The council may by ordinance adopt land use and development regulations, including, but not limited to, an official map and zoning and subdivision regulations.

Subd. 2. *Urban renewal.* The council may by resolution provide for redevelopment, rehabilitation, conservation, and renewal programs for:

(a) The alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration; and

(b) The achievement of the most appropriate use of land.

Subd. 3. *Council action.* Before acting on any proposed ordinance or resolution concerning land use and development regulations, urban renewal or expenditures for capital improvements, where such ordinance or resolution refers to a matter covered by the comprehensive plan, the council shall refer the proposal to the city planning commission. The commission shall within a time specified by the council and prior to the public hearing on any proposed ordinance or resolution report its recommendations thereon. Upon adoption of any such ordinance or resolution, the council shall make findings and report on the relationship between the ordinance or resolution and the comprehensive plan. In the event that the ordinance or resolution does not [is not in] accordance with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

CHAPTER 10. MISCELLANEOUS PROVISIONS

Sec. 10.01. Power to acquire property.

The city may acquire, by purchase, gift, condemnation or other lawful means, any property or property right, either within or without its corporate boundaries, which may be needed by the city for any public use or purpose. The necessity for the taking of any property shall be determined by resolution of the council, which resolution shall in a general way describe the property and state the use to which it is to be devoted. In acquiring property by exercising the powers of eminent domain, the city will proceed according to the laws of this state, except as otherwise provided by this Charter. (Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 10.02. Franchises.

Subd. 1. Without denial or disparagement of other powers held under the Constitution and the laws of the state of Minnesota, the city shall have the right and power to grant franchises to occupy or use the streets, highways, alleys, or public grounds within the city. A person or legal entity must obtain a city franchise before installing or maintaining a fixture in, on, over, or under a city street or public way for a public utility or other purpose, except when otherwise permitted by law.

Subd. 2. Every such franchise shall be granted by an ordinance which shall contain the terms and conditions of the franchise to be granted. The following features must be incorporated in every franchise ordinance:

(a) The franchise shall not be exclusive.

(b) The term of the franchise, which shall not exceed 25 years from the date of passage.

(c) The city shall have the power by ordinance to exercise fair and reasonable regulation of rates to be charged by the grantee to the city and the public for its services.

(d) The grantee shall indemnify and save the city whole and harmless from any and all claims for injury or damage to persons or property occasioned by or arising out of the conduct of the grantee's business in the city.

(e) The franchise shall be terminated or forfeited for any breach or failure to comply with any of the terms, limitations or conditions thereof, and in all such cases the council shall have power to declare the termination and forfeiture of any franchise, the same as though, in each instance, such power was expressly reserved.

Subd. 3. No ordinance granting a franchise and no ordinance regulating the grantee's rights or operations under a franchise shall be put upon its final passage until 30 days after its introduction. (Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 10.03. Municipal utilities.

Subd. 1. The city shall have power to acquire, as provided by state law, any gas, water, heat, light, telephone, or other plant or other public utility. Easements for slopes, fills, sewers, building lines, poles, wires, pipes, and conduits for water, gas, heat and power may be acquired by gift, devise, purchase, or condemnation in the matter provided by law. The operation of all public utilities owned by the city shall be under the supervision of the city manager.

Subd. 2. Upon recommendations made by the city manager or upon its own motion, the council shall have the power to fix all rates and charges for all utilities provided by the city, but such rates and charges shall be just and reasonable. In like manner, the council may prescribe the time and manner in which payments for all such services shall be made, and the manner in which utilities shall be computed or measured, whether by meter or flat rate, and make such other regulations as may be necessary, and may prescribe penalties for violations of such regulations. It shall be the duty of the council to see that rates are adequate to provide funds to properly operate and maintain and to pay interest and indebtedness which may be incurred for capital expenditures for the improvement, acquisition, extension and repair of such public utilities.

Subd. 3. Upon a majority vote of the people, the council may, in lieu of providing for the local production of gas, electricity, water and other utilities, purchase the same in bulk and resell them to local consumers at such rates as it may fix.

Subd. 4. The council shall make a reasonable charge, based on the cost of service for lighting the streets and public buildings or for supplying heat, power, or any other utility, and a reasonable hydrant rental and other charges for supplying the city with water, and shall credit the same to the publicly owned utility supplying the services. Such rentals and other charges for light, heat, power, water, and other services shall be collected in the same manner as from other consumers, unless the council provides some other plan.

Subd. 5. The council may, if the public interests will be served thereby, contract with any responsible person, copartnership, or corporation, for the operation of any utility owned or provided by the city upon such rentals and conditions as it may deem necessary, but such contract shall be

embodied in and let only by an ordinance. In no case shall such contract be for a longer term than ten years. The contractor shall be subject as far as possible to the rules as to rates and service and as to council control laid down for the holders of franchises in Chapter 10 of this Charter.

Subd. 6. No public utility owned by the city, whether acquired prior to the adoption of this Charter or thereafter, shall be sold or otherwise disposed of by the city unless the full terms of the proposition of the sale or other disposition thereof, together with the price to be paid therefor, shall have been embodied in any ordinance passed by the council in the usual way and submitted to the electors at a general or special election and approved by a majority vote of the electors voting thereon.

Subd. 7. Notice of public hearings required by this chapter must be published in the official means of publication at least ten days before the hearing. Additional notice may be given as determined by the council.
(Ord. No. O-2022-1128-19, 11-28-2022; Ord. No. O-2023-1211-7, 12-11-2023)

Sec. 10.04.a. Vacations of public ways, streets and alleys.

Subd. 1. The council with the assistance of the city planning commission shall have exclusive power to vacate or discontinue public grounds, public ways, public streets, alleys or highways or any portion thereof in the city, but no such vacation or discontinuance shall be granted or ordered by the council except upon the verified petition in writing of a majority of the owners of real property on that portion of such street, alley or highway proposed to be vacated or the verified petition of the city's planning director. Such petition shall state the reason for such vacation and briefly describe the street, alley or highway, or portion thereof, desired to be vacated. The council upon presentation of such petition at any special or regular meeting may thereupon order such petition to be filed with the city clerk of who shall immediately make and publish in the official paper a notice for the period of two successive weeks, at least once in each week, stating that such petition has been filed with the city clerk and its object in brief, and that such petition will be heard and considered by the council at a time and place specified therein, which time and place shall be fixed by the council at the time of the acceptance of such petition and the time of hearing such petition shall be at least ten days after the last publication of the notice.

Subd. 2. The council, at the time and place appointed, shall investigate and consider the subject involved in the petition and may view the premises and shall hear testimony offered for or against the petition.

Subd. 3. The council after hearing such petition may by resolution passed by a majority vote of its members grant the petition, and order and declare such street, alley or highway vacated and discontinued.

Subd. 4. Upon the passage of such resolution and the approval thereof by the mayor as in other cases, and upon the same being countersigned by the city clerk, it shall be published once in the official paper of the city.

Subd. 5. A copy of such resolution duly certified to by the city clerk to be a true and correct copy shall, immediately after such publication, be filed and duly recorded in the office of land records of the county of Blue Earth.
(Ord. No. O-2023-1211-7, 12-11-2023)

Sec. 10.04.b. Vacation of easements on private property.

The owner or owners of private property upon which a lawfully platted easement exists may make application to the city to vacate such easement.

Subd. 1. Procedure for filing of application:

(a) *Filing and fee.* The application shall be filed with the city engineer on forms furnished by the city. A fee as prescribed by resolution of the city council shall be charged to defray expenses incident to the processing of said application.

i. The application shall include one copy of a map prepared by a surveyor registered in the state, showing the vacation request. The map shall be of such area and scale as is required to show all factors of the area that will be involved in the proposed vacation, and any alteration of present conditions that will occur.

ii. The application shall include a record of all utility installations within the easement.

iii. The application shall include a record of all parties who possess rights to utilize the easement requested for vacation, and written notification of their willingness to consent to the requested vacation.

(b) *Notification of utility companies.* In processing said application, the city engineer shall notify the appropriate utility companies and agencies of such applications.

(c) *Recommendation of planning commission and action of city council.* The application with the city engineer's recommendations and all data pertaining to the application shall be submitted to the planning commission. Upon review of the planning commission, the planning commission will make a recommendation to the city council. The application shall be placed on the agenda of the city council as a consent item by the city clerk at a regular meeting of the council. The council may approve the application as submitted, or with such conditions as it finds appropriate; or it may deny the application. If the council approves the application, it shall adopt a resolution setting forth the terms of the approval. The resolution shall be recorded in the public records of Blue Earth County.
(Ord. No. O-2023-1211-7, 12-11-2023)

Sec. 10.05. City attorney.

The city attorney shall prosecute, on behalf of the city, all criminal cases arising from violations of the provisions of this Charter and the ordinances of the city, and shall attend to all suits and

proceedings in which the city may be legally interested, provided that the council shall have control of all litigations of the city, and may employ other attorneys to take charge of any litigation or to assist the city attorney therein.
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 10.06. City records.

City books, records and papers shall be classified and handled in conformity with applicable state and federal data practices and privacy laws and regulations to allow for public access to city documents and to protect the privacy rights of persons on whom data is maintained and the effective administration of law enforcement activities.

Sec. 10.07. Platted property.

The council shall have the sole power to accept and approve all plats of property within the city and to prescribe the width and location of streets and alleys required in such plats. The council shall have the power to require the owners of unplatted property to make such improvements as it deems proper before a plat thereof shall be accepted and approved by it.

Sec. 10.08. Sale or lease of real property.

Subd. 1. For purposes of this section, the following terms, phrases, words and their derivations shall have the meaning given herein:

(a) "Development property" is real property acquired by the city for the purpose of its lease or resale for development, urban renewal, elimination of blight, or real property acquired pursuant to tax forfeiture, repossession and mortgage default.

Subd. 2. Classification.

(a) Upon acquisition of real property to be classified as development property, the city council shall, in its resolution authorizing acquisition or acceptance of such real property, designate the real property as "development property." If the city council later chooses to use property classified as "development property" for a permanent city purpose, the property shall be de-classified by resolution.

(b) For property acquired prior to January 1, 1987, the city council may designate such property as "development property" by resolution adopted after a public hearing. Such public hearing shall be conducted after notice has been published in the official newspaper of such hearing and the general location of the properties proposed to be classified as "development property."

Subd. 3. Development property may be sold or leased by resolution of the city council. The provisions of section 2.13(5) of the Charter shall not apply to development property.
(Ord. No. O-2023-1211-7, 12-11-2023)

Sec. 10.09. Saving clause.

If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of this Charter.

Sec. 10.10. Oath of office.

City officers must take an oath of office and file the same with the city clerk, except the oath of the city clerk, which shall be filed in the office of the city finance director. The oath shall be substantially in the following form: "I do solemnly swear (or affirm) to support the Constitution of the United States and of this State, and to discharge faithfully the duties devolving upon me as (mayor, or council member or city manager, etc.) of this city to the best of my judgment and ability."
(Ord. No. O-2022-1128-19, 11-28-2022)

Sec. 10.11. City clerk to administer oaths.

The city clerk shall have the power to administer oaths and affirmations and to take and certify acknowledgments of deeds and other instruments in all cases in which the same are required or sanctioned by law. The city manager shall administer the oath of office to the city clerk.

Sec. 10.12. Regular paydays for city employees.

It shall be the duty of the city manager to establish regular paydays for the city employees, and it shall be the duty of the disbursing officer to meet those paydays.

Sec. 10.13. Succession.

When this Charter takes effect, the city of Mankato shall be and become the legal successor of the city of Mankato under its former Charter and shall be vested with all franchises, rights and immunities formerly vested in the city, except as hereinbefore otherwise provided. All property and property rights and interest of every kind and nature formerly vested in the city of Mankato or in any board or public office of the same shall, when this Charter takes effect, be and become vested in and be possessed by the city of Mankato, under this Charter and all previously existing indebtedness, obligations and liabilities of the city of Mankato or any board or department thereof, shall together will all interest accrued or to accrue thereon be assumed and paid by the city of Mankato.

Sec. 10.14. General laws.

All general laws and statutes of the state applicable to all cities operating under home rule charters, or applicable to second class cities operating under home rule charters, and not inconsistent with the provisions of this Charter, apply to the city.

APPENDIX A-1
Committee Certificate

State of Minnesota

) ss

County of Blue Earth

We certify that the undersigned are all residents of the City of Mankato who are eligible voters and have formed a committee for the purpose of circulating a petition to:

[Chose one:]

☐ recall [name] _____ for [200 words or less] _____

_____

_____

☐ initiate an ordinance regarding _____ a copy of which is attached.

☐ refer to the people Ordinance No._____, adopted on _____, _____, by the Mankato City Council regarding _____

_____.

Attached is a copy of the proposed petition. The names and addresses of the committee members are (a minimum of five is required):

Name	Address
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____

Signatures of committee members (each of which must be notarized):

Name _____

Signed and sworn to before me on _____, _____ by _____

Name _____

Signed and sworn to before me on _____, _____ by _____

Name _____

Signed and sworn to before me on _____, _____ by _____

Name _____

Signed and sworn to before me on _____, _____ by _____

Name _____

Signed and sworn to before me on _____, _____ by _____

Date received by the City: _____, _____.

APPENDIX A-2
Recall Petition

This petition proposes to Recall [name] _____ from _____ on grounds that _____ _____.

The undersigned committee of at least five are constituents of the officer of the City who they now propose to recall:

Sponsoring Committee

	Name	Address
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		

Instructions to Petition Signers

You are being asked to sign a petition and, in doing so, attest to understanding the nature of the grounds for removal of the officer herein sought to be recalled, and desire the holding of a recall election for that purpose. You must be a resident of, and a registered voter in, the constituency of the elected officer whose recall is being petitioned. All signers must include their entire residence address and the date of signing. Every person signing this petition must do so in the presence of the person circulating the petition.

	Date	Name	Address
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			

Date received by the City: _____, _____.

APPENDIX A-3
Referendum Petition

This petition proposes the repeal an ordinance regarding _____, a copy of which is attached. The undersigned believe the ordinance is detrimental to the welfare of the city and petition the city council to repeal the ordinance or to submit it to the voters for their approval or disapproval.

Sponsoring Committee

The proposed repeal is sponsored by the following committee of City of Mankato residents who are eligible voters:

	Name	Address
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		

Instructions to Petition Signers

You are being asked to sign a petition. You must be a resident of, and a registered voter in, the City of Mankato. All signers must include their entire residence address and the date of signing. Every person signing this petition must do so in the presence of the person circulating the petition.

	Date	Name	Address
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

Date received by the City: _____, _____.

APPENDIX A-4
Initiative Petition

This petition proposes an ordinance _____, a copy of which is attached. The undersigned petition the City Council for its adoption or for its submission to the voters for their approval or disapproval.

Sponsoring Committee

This ordinance is sponsored by the following committee of City of Mankato residents who are eligible voters (a minimum of five):

	Name	Address
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		

Instructions to Petition Signers

You are being asked to sign a petition. You must be a resident of, and a registered voter in, the City of Mankato. All signers must include their entire residence address and the date of signing. Every person signing this petition must do so in the presence of the person circulating the petition.

	Date	Name	Address
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

Date received by the City: _____, _____.

APPENDIX A-5
Circulator Affidavit

State of Minnesota
) ss
County of Blue Earth

I, _____ certify that:

a. I am an eligible voter in the City of Mankato.

b. I reside in the City of Mankato at _____.

c. I circulated the attached petition which consists of _____ pages.

d. Each signature contained on the attached petition was executed in my presence.

e. To the best of my knowledge and belief, each person who signed the attached petition is a registered voter of the City of Mankato, and, in those instances of a petition for recall, is a registered voter in the constituency of the officer of the City whose recall is being proposed; and

f. To the best of my knowledge and belief, each petitioner's signature contained on the attached petition is the genuine signature of the person whose name it purports to be.

_____
Signature

Signed and sworn to before me on _____, _____ by _____.

_____
Notary Public

(Ord. No. O-2022-1128-19, 11-28-2022)

CHARTER COMPARATIVE TABLE

This table shows the location of the amendments to the Charter. The Charter is derived from the city's 1952 charter as amended through November 27, 2022.

Legislation	Date	Section	Charter Section
Ord. No. O-2022-1128-19	11-28-2022	—	1.03, 1.04
		—	2.02
		—	2.04
		—	2.07—2.09
		—	2.12
		—	2.14—2.19
		—	3.01—3.08
		—	4.03, 4.04
		—	5.01
		—	5.05—5.07
		—	6.00
		—	6.06
		—	6.16, 6.17
		—	7.03
		—	7.07
		—	8.02—8.04
		—	10.01—10.03
		—	10.05
		—	10.10
		—	10.14
Ord. No. O-2023-1211-7	12-11-2023	—	2.13
		—	2.16, 2.17
		—	6.07
		—	6.17
		—	10.03
		—	10.04.a
		—	10.04.b
		—	10.08

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code; applicability of chapter and Code.
Sec. 1-2. Definitions.
Sec. 1-3. Rules of construction.
Sec. 1-4. Catchlines, notes and references.
Sec. 1-5. Errors and omissions.
Sec. 1-6. Code does not affect prior offenses, penalties and rights.
Sec. 1-7. Certain ordinances not affected by Code.
Sec. 1-8. General penalties.
Sec. 1-9. Separability.
Sec. 1-10. Amendments to Code.
Sec. 1-11. Supplementation of Code.

Sec. 1-1. Designation and citation of Code; applicability of chapter and Code.

(a) The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Mankato, Minnesota." This Code may also be referred to as the "Mankato Code."

(b) The provisions of this chapter shall apply to each provision in this Code, and this Code shall apply to all persons and property within the city.
(Code 2015, § 1.01; Ord. of 9-26-1977)

Sec. 1-2. Definitions.

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

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

City clerk. The term "city clerk" means the person duly appointed by the city council and acting in such capacity.

City manager or *manager.* The term "city manager" or "manager" means the person duly appointed by the city council.

Code or *this Code.* The term "Code" or "this Code" means the Code of Ordinances, City of Mankato, Minnesota, as designated in section 1-1.

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

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

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

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

Council and *city council.* The terms "council" and "city council" mean the city council of Mankato, Minnesota.

County. The term "county" means Blue Earth County, Minnesota, unless the term is specifically preceded by "Nicollet" or "Le Sueur," in which event the term "county" means the designated county.

Delegation of authority. The term "delegation of authority" refers to a provision that authorizes or requires a city officer or city employee to perform an act or make a decision that authorizes such officer or employee to act or make a decision through subordinates.

May. The term "may" is permissive.

Fee schedule. The term "fee schedule" means the schedule of fees and rates for various city services approved from time to time by the city council, a copy of which is available on the city's website.

Gender. Words of gender include all genders.

Minn. R. The abbreviation "Minn. R." refers to the latest edition or supplement of the Minnesota Administrative Rules, as amended from time to time.

M.S.A. The abbreviation "M.S.A." refers to the latest edition or supplement of the Minnesota Statutes, as amended from time to time.

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

Ordinance. The term "ordinance" means an ordinance duly adopted by the city council.

Person. The term "person" includes all firms, partnerships, associations, corporations and material persons.

Shall. The term "shall" is mandatory.

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

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

Violate. The term "violate" includes the term "failure to comply with."
(Code 2015, § 1.02; Ord. of 9-26-1977)

Sec. 1-3. Rules of construction.

Statutory. The canons of construction set forth in M.S.A. § 645.08, and the provisions of law pertaining to the construction of laws set forth in M.S.A. §§ 645.16, 645.17, 645.18, 645.19, 645.20, and 645.21, are adopted by reference and made a part of this section. References in such sections of M.S.A. ch. 645, to laws and statutes shall refer to provisions of this Code; and such references to the legislature shall refer to the city council.

References to publications and compilations. When reference is made in this Code to provisions of this Code or to other publications or compilations of text or data, the reference shall be deemed to refer to the most recent version or edition of the publication or compilation, as amended or updated from time to time, unless otherwise specifically provided.

Computation of time. In computing any period of time mentioned in the provisions of this Code, the day of the act, event or default after which the designated period of time begins to run is not to be included, and the last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday.

(1) *Official time standard.* When certain hours are named in this Code, they shall mean standard time or daylight saving time, as may be in current use in the city.

(2) *Reasonable time.* 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 such act or the giving of such notice.

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

Titles of officials. When reference is made to officers, departments, boards, committees, commissions, etc., the same shall be construed as if followed by the terms "of the City of Mankato, Minnesota," and shall include deputies, assistants and agents if authorized by the law.
(Code 2015, § 1.03; Ord. of 9-26-1977)

Sec. 1-4. Catchlines, notes and references.

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

(b) *References to chapters or sections.* All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

(c) *History notes.* The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

(d) *References and editor's notes.* References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

Sec. 1-5. Errors and omissions.

If a manifest error is discovered consisting of the misspelling of any word, the omission of any word necessary to express the intention of the provisions affected, the use of a word to which no meaning can be attached, or the use of a word when another word was clearly intended to express such intent, such spelling shall be corrected and such word 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 such error.

Sec. 1-6. Code does not affect prior offenses, penalties and rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this Code.

Sec. 1-7. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

(1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city, or any evidence of the city's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the city.

(3) Any administrative ordinances of the city not in conflict or inconsistent with the provisions of this Code.

(4) Any right or franchise granted by any ordinance.

(5) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the city.

(6) Any appropriation ordinance.

(7) Any ordinance levying or imposing taxes.

(8) Any ordinance prescribing fees, fines, charges, rates, or other specific monetary values.

(9) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the city.

(10) Any ordinance regarding salaries or compensation of city officers or employees.

(11) Any temporary or special ordinances.

(12) Any ordinance adopting the state building code, the state fire code or a property maintenance code.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. All ordinances are on file in the city offices.

Sec. 1-8. General penalties.

(a) *Petty misdemeanor.* Whenever an act or omission is declared by this Code to be a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine not to exceed $300.00.

(b) *Misdemeanor.* Unless another penalty is expressly provided in this Code, any person violating any provision of this Code, or any rule or regulation adopted in pursuance to this Code, or any provision of any other code adopted in this Code by reference, shall, upon conviction, be subject to a fine not to exceed $1,000.00, or imprisonment not to exceed 90 days, or both.

(c) *Separate violations.* Unless otherwise provided, each act of violation and each day on which a violation occurs or continues shall constitute a separate offense.
(Code 2015, § 1.04; Ord. of 9-26-1977)

Sec. 1-9. Separability.

In the event any provision of this Code is held invalid or suspended, such invalidity or suspension shall not apply to any other provision of this Code unless specifically provided otherwise by the court or agency declaring such invalidity or ordering such suspension.
(Code 2015, § 1.05; Ord. of 9-26-1977)

Sec. 1-10. Amendments to Code.

(a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the city council to make such additions or amendments a part of this Code, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments.

(b) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by their omission from the reprinted pages.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section ____ of the Code of Ordinances, City of Mankato, Minnesota, is hereby amended to read as follows …." The new provisions shall then be set out in full.

(d) If a new section not then existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, City of Mankato, Minnesota, is hereby amended by adding a section to be numbered ____, which section reads as follows: …." The new section may then be set out in full.

(e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-11. Supplementation of Code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the terms "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," or "this section," as the case may be, or to "sections ____ through ____." The inserted section numbers will indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Chapter 2

ADMINISTRATION

Article I. In General

Sec. 2-1. Officers and administrative functions.
Sec. 2-2. City manager.
Sec. 2-3. City functions.
Sec. 2-4. Compensation of mayor and council members.
Sec. 2-5. Council meetings.
Sec. 2-6. Emergency management.
Sec. 2-7. Unclaimed property.
Sec. 2-8. Purchasing procedure.
Secs. 2-9—2-34. Reserved.

Article II. Boards, Commissions, and Committees

Sec. 2-35. Heritage preservation commission.
Sec. 2-36. Local board of appeal and equalization (property assessment and classification).
Sec. 2-37. Planning commission.
Sec. 2-38. Other boards and committees.
Sec. 2-39. Conflict of interest.
Secs. 2-40—2-68. Reserved.

Article III. Administrative Procedure

Division 1. Generally

Sec. 2-69. Purpose.
Sec. 2-70. Alternative method of enforcement.
Sec. 2-71. Intent.
Sec. 2-72. Definitions.
Sec. 2-73. Code violations.
Sec. 2-74. Administrative civil fines.
Sec. 2-75. Late payment and nonpayment of civil fines.
Sec. 2-76. Imposition of civil fines.
Secs. 2-77—2-95. Reserved.

Division 2. Administrative Appeals

Sec. 2-96. Certain violations appealable by review or hearing.
Sec. 2-97. Administrative strike review.
Sec. 2-98. Appeal from administrative hearings.
Sec. 2-99. Assessment of certain unpaid fines.
Secs. 2-100—2-128. Reserved.

Article IV. Affordable Housing Trust Fund

Division 1. Generally

Sec. 2-129. Authority and purpose.
Sec. 2-130. Definitions.
Secs. 2-131—2-156. Reserved.

Division 2. Housing Trust Fund Account

Sec. 2-157. Source of trust funds.
Sec. 2-158. Trust fund administration.

ARTICLE I. IN GENERAL

Sec. 2-1. Officers and administrative functions.

(a) *Organization.* The city manager shall organize the city in such a manner to provide the following services to the community, as are required by the Charter and by law: community development, public safety, and public works. These service provisions shall be supported by the following administrative support functions: civic center, finance, human resources, information technology, legal, and public information.

(b) *Bond required.* A bond in an amount to be determined by the council shall be obtained by the city for each person appointed to any office named in this section and for each person performing the duties of a cashier. Such bond may provide coverage for more than one person, shall be issued by a surety company and shall be conditioned upon the faithful performance of the duties of the persons covered.
(Code 2015, § 2.01; Ord. No. 18-1210-13, § 2.01, 12-10-2018)

Sec. 2-2. City manager.

(a) *Duties.* The city manager shall be the chief administrative and accounting officer of the city and shall perform the duties and have the responsibilities prescribed by the Charter.

(b) *Supervision.* The city manager shall supervise the offices established by section 2-1, and shall have the authority, subject to applicable civil service regulations, to appoint, suspend, remove and discipline all city employees and to perform or delegate the duties of the department heads. The salary or wages of each city employee shall be determined by the city manager, within the pay range for such employees established by the city council.

(c) *Rules.* The city manager may prescribe such rules and regulations, not inconsistent with the Charter and this Code, as the manager may deem necessary or for the conduct of the various departments, and the city manager may investigate and inquire into the conduct of any department at any time.

(d) *Acting city manager.* The city manager shall designate, subject to council approval, a qualified city administrative officer to exercise the powers and perform the duties of city manager during a temporary absence or disability, as prescribed by the city Charter.
(Code 2015, § 2.02; Ord. No. 18-1210-13, § 2.02, 12-10-2018)

Sec. 2-3. City functions.

(a) *Administrative functions.* Administration consists of the city manager's office and the following functions with the following duties, in addition to any other duties delegated thereto by the city manager:

(1) Civic center, responsible for convention and arena activities;

(2) Finance, responsible for auditing, budgeting, purchasing;

(3) Human resources, responsible for benefits and compensation, employee and labor relations, wellness, training and development, payroll, job descriptions, job openings and recruitment and selection;

(4) Information technology, responsible for identifying and implementing new technology uses to support city services;

(5) Legal, represents the city in legal matters, drafts or approves deeds, leases, contracts, ordinances, and resolutions;

(6) Public information, responsible for increasing awareness, interest and participation through a variety of communication tools.

(b) *Service functions.* Service areas consist of the following functions with the following duties, in addition to any other duties delegated thereto by the city manager:

(1) Community development, responsible for planning and development, housing, inspections, and mass transit;

(2) Public safety includes police (responsible for providing public safety and enforcing the laws of the city) and fire (responsible for providing fire protection, fire inspection and investigation and establishing fire prevention and nature disaster preparedness);

(3) Public utilities, responsible for water, wastewater, stormwater, streetlights, and refuse and recycling;

(4) Public works, responsible for park maintenance, streets, sanitation, forestry, public infrastructure, airports, public facilities and equipment.

(Code 2015, § 2.03; Ord. No. 18-1210-13, § 2.03, 12-10-2018)

Sec. 2-4. Compensation of mayor and council members.

(a) *Salary of mayor and council members.* The mayor and council members shall each receive an annual salary payable in equal monthly installments.

(b) *Salary review.* Salaries in subsection (a) of this section shall be reviewed for possible adjustment by ordinance of the city council.

(c) *Other compensation.* The mayor and council members are eligible to receive a per diem payment of $150.00 per day up to four days per calendar year. This compensation is expected to reimburse council members for full days to attend meetings, training, or legislative events on behalf of the city.

(Code 2015, § 2.04; Ord. No. 18-1210-13, § 2.04, 12-10-2018)

Sec. 2-5. Council meetings.

City council operational policies and guidelines shall be established by resolution of the city council.

(Code 2015, § 2.05; Ord. No. 18-1210-13, § 2.05, 12-10-2018)

Sec. 2-6. Emergency management.

In conformity with the requirements of the provisions of M.S.A. § 12.25, the city shall establish an emergency management program to provide for the necessary powers during emergencies. The city manager or designee shall be responsible for the organization, administration and operation, subject to the direction and control of the council.
(Code 2015, § 2.06; Ord. No. 18-1210-13, § 2.06, 12-10-2018)

Sec. 2-7. Unclaimed property.

Any personal property, except a motor vehicle, lawfully coming into the possession of the city, which property remains unclaimed by the owner for a period of at least 60 days, shall be sold at a public auction, destroyed, or converted to public use. Notice of such sale/disposition shall be published at least once in the official newspaper not less than ten days prior to such sale. The city shall have the right to purchase any item at any such sale. The proceeds from such sale shall be placed in the general fund, and the person conducting such sale shall maintain a record of each item sold, the amount received therefor, and the name of the party to whom the item was sold. The former owner of any such item sold, upon proof of ownership of such item, shall, within six months after such sale, have the right to payment by the city of the price for which such item was sold.
(Code 2015, § 2.07; Ord. No. 18-1210-13, § 2.07, 12-10-2018)

Sec. 2-8. Purchasing procedure.

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

Change order means an amendment of a contract awarded on a unit price basis, which amendment consists of the addition or deletion of additional units of work or materials at the same unit price as awarded by the city council.

Contract means an agreement entered into by the city for the sale or purchase of supplies, materials or equipment, or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property.

Supplementary agreement means any amendment of a contract, excluding a change order as defined in this subsection, which amendment enlarges, reduces or amends the scope of a contract.

(b) *Contracts requiring competitive bidding.* If the amount of the contract is estimated to exceed the threshold established by state law under M.S.A. § 471.345, sealed bids shall be solicited by advertisement in the official newspaper no less than ten days before the last day for submission of bids, provided that solicitation for any local improvement, as defined in M.S.A. ch. 429, the cost of which is estimated to exceed twice the threshold established by state law under M.S.A. § 471.45, shall be made by advertisement in the official newspaper, as provided above, and at least once in a newspaper or trade paper published in a city of the first class no less than three weeks before the last day for submission of bids. All bids received by the city shall be opened, at the time and place set forth in the advertisement for bids, by an agent of the city designated by the city manager. After the

bids received are opened, the city manager shall, within a reasonable time, present to the city council a report of such bids, whereupon the city council may award the contract to the lowest responsible bidder or reject all bids. In determining whether a bid is responsible, factors such as past performance, service, experience, availability of parts, warranty and suitability may be considered.

(c) *Contracts not requiring competitive bidding.* If the amount of the contract is estimated to be less than the threshold for competitive bidding required by state law under M.S.A. § 471.345, the contract may be made either upon sealed bids as provided in subsection (b) of this section, or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof. After receipt of such quotations, the city manager may award the contract to the party submitting the lowest responsible quotation or reject all quotations. In determining whether a quotation is responsible, factors such as past performance, service, experience, availability of parts, warranty and suitability may be considered.

(d) *Contracts less than $25,000.00.* If the amount of the contract is estimated to be less than $25,000.00, the contract may be either by quotation as provided in subsection (c) of this section, or in the open market, but so far as practicable shall be based on at least two quotations which shall be kept on file for a period of at least one year after the receipt thereof. After the receipt of such quotations, the city manager may award the contract to the party submitting the lowest responsible quotation or reject all quotations. In determining whether a quotation is responsible, factors such as past performance, service, experience, availability of parts, warranty and suitability may be considered.

(e) *Change order; authority of city manager.*

(1) The city manager shall have the authority to and may authorize and approve any change order or change orders which, in total, shall not exceed $25,000.00, as determined by multiplying the number of units estimated to have been required at the time of the award of the contract price by the unit price, provided that such authority shall not apply to change order in contracts for improvements financed by bonds issued pursuant to the provisions of M.S.A. ch. 429. The city manager shall, as soon as practicable after the authorization or approval of any change order, submit a report thereof to the city council.

(2) The city manager shall have the authority to and may authorize and approve any change orders for capital improvement projects over $2,500,000.00 up to five percent of the construction cost, which, in total, shall not exceed five percent of the construction cost as determined by multiplying the number of units estimated to have been required at the time of the award of the contract price by the unit price, provided that such authority shall not apply to change order in contracts for improvements financed by bonds issued pursuant to the provisions of M.S.A. ch. 429. The city manager shall, as soon as practicable after the authorization or approval of any change order, submit a report thereof to the city council.

(f) *Supplementary agreement; authority of city manager.* The city manager shall have the authority to and may authorize and approve any supplementary agreement or agreements which, in total, shall not exceed $25,000.00, provided that such authority shall not apply to supplementary

agreements for contracts for improvements financed by bonds issued pursuant to the provisions of M.S.A. ch. 429. The city manager shall, as soon as practicable after the authorization or approval of any supplementary agreement, submit a report thereof to the city council.
(Code 2015, § 2.08; Ord. No. 18-1210-13, § 2.08, 12-10-2018; Ord. No. O-2024-0528-3, 5-28-2024)

Secs. 2-9—2-34. Reserved.

ARTICLE II. BOARDS, COMMISSIONS, AND COMMITTEES

Sec. 2-35. Heritage preservation commission.

(a) *Establishment.* Pursuant to M.S.A. § 471.193, there is hereby created and established a city heritage preservation commission.

(b) *Membership.* The commission shall consist of seven voting members, all of whom are to be residents of the city and appointed by the city council. Out of the seven members, one shall be selected from and by the Blue Earth County Historical Society, and one shall be selected from and by the city planning commission. The member appointed from the planning commission shall serve upon the commission only so long as such member remains on the planning commission. Members shall be persons who have demonstrated an interest in the historical, cultural, or architectural development of the city or who own property within a heritage preservation district. At least two of the five members shall be preservation-related professionals, which includes persons engaged in the building trades.

(c) *Terms.* The members shall serve for a term of three years. All terms shall expire on June 30 of the year in which the terms expire. Of the six resident members of the commission initially appointed; two shall be appointed for a term of one year, two shall be appointed for a term of years and two shall be appointed for a term of three years. Thereafter, all terms shall be for three years. No person may be appointed to more than three complete, successive terms as a commission member.

(d) *Organization.* The commission shall select from among its members such officers as it may deem necessary. The commission shall have the power to designate an appoint from its members various committees with powers and duties consistent with the regulations as it may deem advisable and necessary for the purpose of carrying out the intent of this section and section 10-1508, and which are not inconsistent with state law and this Code. The commission shall make and file with the city council an annual report containing a statement of its activities. The city may provide the commission with staff to perform the duties prescribed under this section.

(e) *Records.* Minutes of all meetings shall be kept, and all records and meetings of the commission shall be open to the public. Archives of the minutes shall be kept pursuant to M.S.A. § 138.17.

(f) *Powers and duties.* The commission shall have the responsibility of recommending to the city council the adoption of ordinances designating areas, places, buildings, structures, works of art, or other objects having special historical, cultural, or architectural interest for the community as heritage preservation landmarks or districts, as such terms are defined in section 10-1508.
(Code 2015, § 2.09; Ord. No. 18-1210-13, § 2.09, 12-10-2018)

Sec. 2-36. Local board of appeal and equalization (property assessment and classification).

(a) *Establishment.* Pursuant to M.S.A. § 274.01, the city has established a special board of review of the city.

(b) *Membership.* The board shall be composed of five regular commissioners and two alternates appointed by the city council. All members must be residents of the city. At least one regular and one alternate commissioner shall each be an appraiser, realtor or other person familiar with property valuations in the city.

(c) *Terms.* Board members and alternates shall serve for a term of three years. Of the commissioners initially appointed, one shall be appointed for a term of one year, two shall be appointed for a term of two years and two shall be appointed for a term of three years. The alternates initially appointed shall be appointed for three-year terms. No person may be appointed to more than three complete, successive terms as a regular commission member.

(d) *Vacancies.* Any vacant position may be filled for the unexpired term by the council.

(e) *Compensation.* Members and alternates of the special board of review shall receive such hourly compensation for the time spent at hearings at the rate of $20.00 per hour.

(f) *Removal.* The council, by majority vote, may remove any regular or alternate member of the special board of review.

(g) *Power and duties.* The board shall have all the power and duties that would be given to the city council acting as the board of review pursuant to M.S.A. § 274.01, subd. 1.

(h) *Procedures.*

(1) Meetings and operations of the board shall be conducted in accordance with M.S.A. § 274.01 and applicable laws governing public access to such meetings, operations and data.

(2) The council shall designate one regular board member to act as chairperson of the board and one regular member to serve as vice-chairperson. In the absence of the chairperson, the vice-chairperson shall serve as chairperson.

(3) In the event a regular member is absent, an alternate member may act in that member's stead. The chairperson shall designate which alternate shall serve in the absence of a member. In the event more than one member is absent, both alternate members may serve during such absence.

(4) At least three members or alternates shall constitute a quorum of the board.
(Code 2015, § 2.11; Ord. No. 18-1210-13, § 2.11, 12-10-2018)

Sec. 2-37. Planning commission.

(a) *Establishment.* The city has established the city planning commission.

(b) *Membership.* The commission shall consist of seven members, with six being city residents appointed by the city council, and one member shall be a member of the city council.

(c) *Terms.* Of the six city resident members first appointed by the council, two city resident members shall be appointed for a term of one year, two city resident members shall be appointed for a term of two years, and two city resident members shall be appointed for a term of three years. Thereafter, city resident members shall be appointed for a term of three years. No person may be appointed to more than three complete, successive terms as a commission member. All terms shall expire on June 30 of the year in which the terms expire. The city council member shall be appointed to serve until such time as a successor is appointed by the city council.

(d) *Vacancies.* Any vacant planning commission membership shall be filled for the unexpired term of office by the city council, and upon expiration of any term of office, the member appointed to the position for which such term has expired shall continue to serve until such time as a successor is appointed and qualified to assume office.

(e) *Compensation.* The members of the commission hereby created shall serve without compensation.

(f) *Removal.* The council, by majority vote, may remove any regular or alternate member of the special board of review.

(g) *Powers and responsibilities.* The duties and responsibilities of the planning commission shall be as follows:

(1) Adopt rules for the operation of the commission, including rules pertaining to the election of officers.

(2) Conduct meetings, open to public and in conformity with the state open meeting law, at such times deemed appropriate by the commission.

(3) Maintain permanent minutes and records of commission meetings and proceedings and file such records with the city clerk.

(4) Advise the city council regarding planning matters and assist the city council in the maintenance of a comprehensive plan.

(5) Perform such reviews and make such recommendations as may be requested or required by the city council.

(Code 2015, § 2.12; Ord. No. 18-1210-13, § 2.12, 12-10-2018)

Sec. 2-38. Other boards and committees.

From time to time, the city council may create boards or committees by resolution as may be deemed necessary to advise and assist the city council and city administration on city business or current issues. The duration, membership, purpose, and functions shall be identified within the resolution. Committees established by resolution prior to the ordinance from which this article is derived being amended shall remain in effect until future action by resolution of the city council. (Code 2015, § 2.13; Ord. No. 18-1210-13, § 2.13, 12-10-2018)

Sec. 2-39. Conflict of interest.

(a) *Statement of policy.* The proper operation of elected governments requires that officials be independent, impartial and responsible to the people; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, an ordinance for city officials is adopted to govern the procedures to be followed in city council, and commission or committee, meetings where conflicts of interest may arise.

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

Business means a corporation (whether for profit or nonprofit), partnership, sole proprietorship, firm, organization or other legal entity.

Conflict of interest means any situation in which a city official would be disqualified under the ordinance or by state or federal law.

Financial interest means any interest which shall yield, directly or indirectly, any monetary or other material benefit to the city official or to the official's spouse or minor children. The term "financial interest" shall not include salary or other compensation or reimbursement of expenses authorized by law.

Quasi-judicial means the review of the application of general laws to a specific person such as the granting, denial, non-renewal, renewal or revocation of a license, permit, variance, conditional use permit or similar act.

Related means the relationship to a person, through blood, adoption, or marriage as a spouse, parent, child, grandchild, great-grandchild, grandparent or great-grandparent, uncle, aunt, niece or nephew.

(c) *Disqualification for conflict of interest.*

(1) *Contracts and business matters.* A city official shall be disqualified from participating in any official act directly affecting a business in which he or she has a financial interest.

(2) *Quasi-judicial acts.* A city official shall be disqualified from participating in any quasi-judicial act where the official has a financial interest in the matter or is related to the party affected by the quasi-judicial proceedings.

(3) *State law.* A city official shall be disqualified from participating in any matter before the council, commission or committee when required to do so by state or federal law.

(d) *Acts affecting the general public.* General business regulation. An official shall not be disqualified from participating in a matter that would affect his or her business if the effect of the proposed action would be no greater on other members of the same business classification, profession or occupation than it would be on the official.

(e) *Procedure.*

(1) *Removal.* An official having a conflict of interest in a matter before consideration by the council, committee or commission of which they are a member shall, prior to any discussion of the matter, disclose the existence of such conflict and request that he or she be removed from consideration and voting on the matter. Such request shall be made by asking that the official be excused from participation in any discussion of the matter and voting on the matter. Such request shall be made by disclosing the nature of the disqualifying interest held by the official. The request to be excused from participation in a matter shall have precedence over any other motion or matter before the council, commission or committee, and the official requesting removal may interrupt the speaker to request removal and the vote on excusing the official shall take precedence over any other matter before the council, commission or committee.

a. Upon a majority vote of the council, commission or committee, the official shall be excused from participating in the discussion and voting on the matter in which the member has a conflict of interest.

b. In computing the number of votes necessary to pass a resolution or other act of the council that may require an extraordinary majority vote, an official excused for a conflict of interest shall not be counted in determining the denominator of the fraction used to determine whether an extraordinary majority voted in favor of the matter.

(2) *Abstention.* In the event an official's request to be excused from participating in the matter before the council, commission or committee is not granted, or the official participates in discussion, the official may nonetheless abstain from participating in the vote of the council, commission or committee, but such abstention will be functionally treated as a negative vote in determining whether the matter is passed.

(3) *Effect.* After an official has been excused from participation due to a conflict of interest, he or she shall not participate in the discussion of or vote on the matter for which he or she was excused.

(Code 2015, § 2.14; Ord. No. 18-1210-13, § 2.14, 12-10-2018)

Secs. 2-40—2-68. Reserved.

ARTICLE III. ADMINISTRATIVE PROCEDURE

DIVISION 1. GENERALLY

Sec. 2-69. Purpose.

The purpose of this article is to provide an administrative process for the enforcement of certain violations of the Code.
(Code 2015, § 19.01; Ord. No. 15-1214-16, § 19.01, 12-14-2015)

Sec. 2-70. Alternative method of enforcement.

This administrative process provides an alternative method of enforcement of the Code prior to any formal criminal or civil court action. The administrative process outlined in this article shall be in addition to any other legal or equitable remedy available to the city for Code violations. The city, in its sole discretion, may choose not to utilize the administrative citations and procedures provided for under this article for any violation of the Code and may instead bring criminal charges or any other remedy, including civil fines permitted by the Code, state law, or federal law. In the event a party participates in the administrative procedures set forth in this article but does not comply with the civil penalty imposed, and the party is not otherwise absolved of the administrative offense, the city may seek to collect the costs of the administrative offense procedure, including, without limitation, the city's attorney fees and costs as part of a subsequent criminal sentence if the party is charged and found guilty of the violation.
(Code 2015, § 19.02; Ord. No. 15-1214-16, § 19.02, 12-14-2015)

Sec. 2-71. Intent.

The council finds that the criminal fines and fees typically utilized for enforcement contain certain negative consequences for both the city and the accused, including potential for incarceration, convictions to criminal records or driving records, which invoke collateral consequences like driver's license suspension by the department of public safety, the inherent label of criminal, delayed resolution, time and monetary expenses. Therefore, the council finds that the use of an administrative process and the imposition of civil penalties is a necessary and pragmatic alternative method of gaining compliance with the Code.
(Code 2015, § 19.03; Ord. No. 15-1214-16, § 19.03, 12-14-2015)

Sec. 2-72. Definitions.

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

Administrative fine means the civil fine imposed for an administrative offense that has been approved on a schedule adopted by the city council.

Citation means any written citation issued to a person charged with violating an administrative or other violation as hereinafter described.

City designee means any city employee acting at the direction of his or her supervisor in accordance with the Code. Examples of city designees include peace officers, community service officers, license examiners, the fire marshal or inspectors, and building inspectors, which include all city designees with authority to issue corrective procedures.

Code means any provision of this Code.

Hearing officer means an approved practicing or retired attorney with a license to practice law in good standing in the state.

Letter notice means a letter written by a city designee, on city letterhead, which provides the date, time and nature of an administrative offense and a time period for responding.

Reasonable belief means a belief accepted by rational and prudent people in the conduct of their affairs.

Strike means an offense found under the licensing codes (with strike matrices) and enforced through letter notice by a city designee for an infraction of this Code.

Violation means failure to comply with a specific section of this Code; each day a violation exists constitutes a new and separate offense.
(Code 2015, § 19.04; Ord. No. 15-1214-16, § 19.04, 12-14-2015)

Sec. 2-73. Code violations.

A violation of the following provisions of this Code, or their successors, shall be deemed an administrative offense subject to the hearing process of this chapter. Violations are categorized as property, non-property, licensing, and parking violations.

(1) *Property violations.*

a. Chapter 5, article II, division 3—Housing code.

b. Chapter 7—Dwelling unit rental.

c. Chapter 9, article III—Alarm systems.

d. Section 10-2005(2)a and d only—Land use (zoning); enforcement.

e. Chapter 11, article I—Nuisance abatement.

f. Chapter 14, article II, division 1—Right-of-way management.

g. Section 14-188—Approval, denial and revocation of natural landscape permits.

h. Chapter 17—Utilities; rules and regulations.

(2) *Non-property violations.* Chapter 6—Regulation of domestic animals.

(3) *Licensing violations.*

a. Chapter 3, article II, division 2—Liquor licenses; general provisions (strike matrix established).

b. Section 6-21—Licensing; general provisions.

c. Chapter 6, article III, division 2—Carnival.

d. Chapter 6, article III, division 3—Tobacco.

e. Chapter 6, article III, division 4—Peddler.

f. Chapter 6, article III, division 5—Transportation network companies (strike matrix established).

g. Chapter 6, article III, division 6—Taxicab (strike matrix established).

h. Chapter 6, article III, division 7—Mobile food units.

i. Chapter 7, article II—Dwelling unit rental.

(4) *Parking violations.*

a. Section 16-182—Parking regulations; penalty.

b. Section 16-133—Dockless electric scooters.

(Code 2015, § 19.05; Ord. No. 15-1214-16, § 19.05, 12-14-2015)

Sec. 2-74. Administrative civil fines.

The administrative offenses outlined in section 2-73 may be subject to an administrative fine. The maximum amount of any fine shall not exceed the amount of the maximum fine allowed under state statutes for a similar misdemeanor criminal or petty misdemeanor violation. The city shall adopt, by resolution of the council, a schedule of administrative fines and collection fees for administrative offenses. City officials shall adhere to this schedule when issuing administrative fines.

(Code 2015, § 19.06; Ord. No. 15-1214-16, § 19.06, 12-14-2015)

Sec. 2-75. Late payment and nonpayment of civil fines.

Administrative fines must be paid within 20 days of the date of issuance of the citation or notice of the fine imposed. All fines are paid to the city manager's office unless otherwise noted on the citation or notice. If the payment is not received within the allotted time, or an appropriate appeal has not been filed, a late fee equal to ten percent of the amount of the original fine shall be imposed, as provided in the city fee schedule. If payment of a civil fine is not received within 45 days, the fine is considered unpaid and constitutes a personal obligation of the violator. A personal obligation may be collected by the city by any appropriate legal means. Unpaid fines sent to collections will be assessed a collection fee, as provided in the city fee schedule, in addition to the late fee. If the fine was imposed under section 2-73(1), property violations, the city may assess the applicable property pursuant to Charter section 6.20.

(Code 2015, § 19.07; Ord. No. 15-1214-16, § 19.07, 12-14-2015)

Sec. 2-76. Imposition of civil fines.

Fines may be imposed by either administrative citation or by letter notice. Citations or letters are issued upon reasonable belief that a violation has occurred by an authorized city designee. Service shall be in person or by U.S. mail to the last known address of the alleged violator. The citation or letter notice shall state the date, time, and nature of the offense, the name of the city official issuing the civil fine, the amount of the civil fine, manner for paying the fine and the process for appealing the civil fine by requesting administrative review or hearing. If the alleged licensing violator is dissatisfied

with the administrative review, an administrative hearing may be requested. Administrative review is done by the public advisory committee, and administrative hearings are conducted by council approved hearing officers.
(Code 2015, § 19.08; Ord. No. 15-1214-16, § 19.08, 12-14-2015)

Secs. 2-77—2-95. Reserved.

DIVISION 2. ADMINISTRATIVE APPEALS

Sec. 2-96. Certain violations appealable by review or hearing.

Property, non-property, parking violations and action taken on licensing violations shall be appealable to a hearing officer consistent with this division. Only licensing violations under strike matrices shall be heard by a three-panel board of the public safety advisory committee, consistent with section 2-97.

(1) *Property violations.* Upon reasonable belief that a property violation has occurred, a designated city official shall serve upon the violator, or responsibly party, a letter notice detailing the violation and required corrective action. Depending on the violation, a civil penalty may also be imposed. The letter notice shall be sent by certified mail to the last known address of the violator, or hand delivered to the person responsible for the violation. The letter notice shall state with specificity the date of the violation, nature of the offense including the applicable code provision violated, the name of the city official issuing the letter notice, amount of the fine (if any) imposed, the manner for paying the fine or alternatively the manner for requesting an administrative hearing.

(2) *Non-property violations.* Non-property violations include all other violations not otherwise specified as property, licensing, or parking. Upon reasonable belief that a non-property violation has occurred, a designated city official shall serve on the violator a letter, notice or a citation detailing the violation and required corrective action. Depending on the violation, a civil penalty may also be imposed. The letter notice, or citation, shall state with specificity the date of the violation, nature of the offense, including the applicable code provision violated, the name of the city official issuing the letter notice or citation, amount of the fine (if any) imposed, the manner for paying the fine or alternatively the manner for requesting an administrative hearing.

(3) *Licensing violations.* Licensing violations are handled either through section 2-97 for strike matrices violations or section 2-98 for violations not subject to strike matrices. Violations issued under the applicable strike matrix in licensing will be reviewed by a three-panel board of the public safety advisory committee upon proper notice of request for review. Any strike imposed may be reviewed upon written request to the city clerk within the 20-day time period specified. The request must be submitted on the form provided by the city and must detail the reason for the requested review. The three-panel board of the public safety advisory committee shall meet periodically for the purposes of hearing strike reviews. During a review, the city designee and the alleged violator shall each have the opportunity to

informally present evidence in support of or against the issued strike. The board shall issue a written decision within seven days either affirming the strike or removing the strike. The decision of the board is nonappealable unless the violator's license is subject to revocation or suspension. Only the council may revoke or suspend a license. The council may hear any strike or violation based upon the seriousness of the alleged violation or at the request of the council or a city designee.

(4) *Parking violations.* Upon good faith belief that a parking violation has occurred, a parking ticket will be issued pursuant to chapter 14. If parking tickets remain unpaid after a specified period of time as noted in the Code, they will be filed with the Fifth Judicial District Court and subject to state required court costs and fees. At any time prior to filing in district court, a party receiving a parking violation may request the violation be heard by a hearing officer under section 2-98.

(Code 2015, § 19.09; Ord. No. 15-1214-16, § 19.09, 12-14-2015)

Sec. 2-97. Administrative strike review.

Licensing violations with strike matrices are appealable to a three-board member panel of the public safety advisory committee, subject to the procedures outlined below. Licensing not having approved strike matrices are appealable under section 2-98.

(1) *Review panel.* Licensing violations issued pursuant to the strike matrices found in the licensing sections of this Code can be appealed to a three-board member panel of the public advisory committee. The public safety advisory committee is appointed by the city council consistent with Charter section 4.04. Three members of the public safety advisory committee will be selected, at random, by the city manager's office, to sit for administrative reviews for each calendar year. Decisions made at reviews by the panel must be voted on, with the majority vote carrying the decision.

(2) *Request for strike review.* Requests for strike review of an issued strike shall be made in writing on the form provided by the city within 20 days of the date of a letter notice or citation issuing the strike along with an administrative review fee established by resolution of the city council and provided in the city fee schedule. The request for strike review shall include a photocopy of the citation or letter notice being appealed, a succinct and complete statement of the grounds for appeal, a statement of the relief requested and any other information the requesting party believes relevant. The city manager's office shall receive requests for strike reviews and forward them to the public safety advisory committee. Incomplete forms shall not be considered.

(3) *Informal settlement conference (ISC).* Prior to setting the date of review, the party requesting review shall meet or, at minimum, participate in a telephone conference, in order to discuss settlement of the alleged violation in an informal setting. If the parties are able to reach agreement, the agreement shall be reduced to writing, signed by both parties, and notice of the written settlement shall be forwarded to the city manager's office and shall cancel any request for review.

(4) *Notice of strike review hearing.* Notice of the hearing, including the date, time, location of the hearing and names of the review panel members shall be served in person or by mail on the parties at least ten days prior to the scheduled hearing.

(5) *Removal of panel members.* The party requesting the hearing shall have the right to remove any member of the review panel upon a written request for removal, submitted to the city manager's office at least five days prior to the scheduled hearing. One such request shall be automatically granted by the city manager, and the city manager's office will randomly substitute another member of the public safety advisory committee for the review hearing. Any subsequent requests for removal shall be directed to the city manager, or his or her designee, who will make an independent decision on whether or not the review panel member can hear the strike appeal. If the city manager or his or her designee makes a finding that another review panel member should be selected, he or she will randomly select a substitute from the public advisory committee to serve at the hearing.

(6) *Fees, prepayment required.* A request for strike review is not effective unless the fee is paid within the 20-day time period prescribed along with a completed request for strike review. The city has the authority to reduce or waive the fee if the requesting party can demonstrate indigency by clear and convincing evidence. Such evidence must be provided in writing and can be demonstrated by receipt of means tested government benefits or demonstrated lack of assets or income. Such proof of indigency shall be submitted to the city manager's office with the request for strike review. The city manager's office shall notify the party requesting reduced fee within 48 hours of the city's determination and full payment of the fee is due 48 hours in advance of the scheduled hearing. If the fee is not paid or the party requesting the hearing has not requested a continuance, or if the requesting party fails to attend the hearing, all costs attributed to the hearing shall be charged to the requesting party (with deduction for any prepaid fees.) The administrative hearing fee may be refunded if the review panel determines that no violation occurred. If the review panel determines that a violation occurred, the administrative fee shall be applied to the civil fine imposed.

(7) *Continuances.* A party may request a continuance of the scheduled hearing by submitting the form provided by the city at least 48 hours prior to the scheduled review and upon a showing of good cause. The request for continuance must specify the basis for the request with a statement of facts supporting good cause and shall be provided to the city manager's office along with a telephone number for immediate response. The city manager's office or employee acting in his or her stead shall either grant or deny the request, in writing, if the request was made at least one week in advance, or by telephone as soon as reasonably possible. If a new hearing date is granted, notice shall be mailed in accordance with subsection (4) of this section.

(8) *Strike review hearing procedures.* The strike review hearing procedure shall be informal. Each party shall have the opportunity to present testimony, question witnesses, and submit documentary evidence in support of his or her case. A party offering documentary evidence shall mark the party's name on the exhibit in a way that will not obscure the exhibit. Strict rules of evidence shall not apply, and reliable hearsay will be considered based on credibility

of the submitted evidence using a reasonable person standard and subject to its probative weight and reliability. In all strike reviews the city shall have the burden of proving, by a preponderance of evidence, that the alleged violation occurred and the violator is the person or one of the persons legally responsible. If the alleged violator fails to appear for any scheduled strike review the violation shall be deemed an admission to the violation, the review panel shall uphold the fine originally imposed and the violator thereby waives any further right to appeal. All parties must appear in person and neither party may be represented by a lawyer.

(9) *Authority of the review panel members.* The review panel shall have the authority to:

a. Determine whether a violation occurred and affirm the violation.

b. Dismiss the violation outright for lack of evidentiary support or the city's inability to prove either the violation or that the violator is the person responsible.

c. Impose the suggested civil fine for the strike.

d. Reduce or waive the scheduled civil fine while still upholding the strike if mitigating factors are presented.

(10) *Factors considered when imposing fines.* When making a determination of appropriate civil fines, the review panel may consider all or some of the following:

a. Nature of the violation.

b. Frequency and duration of the violation, including recurrences.

c. Seriousness of the violation and good faith efforts of the violator.

d. History of the party fined and prior remedial action taken.

e. Conduct before and after the issuance of the notice of review.

f. Financial hardship of the violator.

g. Impact of the violation upon the community.

h. Any other factors appropriate to a just result.

(11) *Decision by review panel.* The review panel shall issue a written decision within seven days of the review and the decision shall be signed by all members of the panel. A majority vote of the review panel shall be required. Decisions shall be served either personally at the review, or by U.S. mail within the seven-day time period prescribed. Decisions made by the review panel are not subject to further appeal. If three strikes are issued against any one licensee, either for one incident or cumulatively over the course of 12 months, the licensee shall appear before the city council for consideration of action against their license. Such action may include suspension, revocation, or imposition of fine.

(12) *Enforcement of review panel's decision.* Upon mailing of the written decision of the review panel, the violator is deemed to have received proper notice of the decision and, within 20 days, shall pay the administrative fine imposed. Administrative fines are considered personal obligations of the violator and may be collected by any legal means.

(Code 2015, § 19.10; Ord. No. 15-1214-16, § 19.10, 12-14-2015)

Sec. 2-98. Appeal from administrative hearings.

Property, non-property, parking ticket violations and licensing action resulting in suspension or revocation are all appealable to a hearing officer, subject to the procedures outlined below.

(1) *Hearing officers.* The city council shall periodically approve a list of lawyers, from which the city manager or designee shall randomly select as a hearing officer to decide appeals under this subsection. Hearing officers are not judicial officers but are considered public officers as defined by M.S.A. § 609.415. Hearing officers shall not be current or former city employees. Hearing officers shall be persons licensed to practice law in the state as either active or retired licensees in good standing.

(2) *Request for hearing.* Requests for hearing shall be made in writing on the form provided by the city within 20 days of the date of a letter notice or citation, or action taken by the city council. The request for hearing shall be made in writing on the form provided by the city along with an administrative hearing fee established by resolution of the city council. The request for hearing shall include a photocopy of the citation or letter notice being appealed, a succinct and complete statement of the grounds for appeal, a statement of the relief requested and any other information the requesting party believes relevant. The city manager's office shall receive requests for hearing and forward them to the council (in certain licensing cases) or hearing officer after one has been assigned. Incomplete forms shall not be considered.

(3) *Informal settlement conference (ISC).* Prior to setting the date of hearing, the party requesting a hearing shall meet, or at minimum participate in a telephone conference, in order to discuss settlement of the alleged violation in an informal setting. If the parties are able to reach agreement, the agreement shall be reduced to writing, signed by both parties, and notice of the written settlement shall be forwarded to the city manager's office and shall cancel any request for hearing.

(4) *Notice of hearing.* Notice of the hearing, including the date, time, location of the hearing and name of assigned hearing officer shall be served in person or by mail on the parties at least ten days prior to the scheduled hearing.

(5) *Removal of hearing officer.* The party requesting the hearing shall have the right to remove the assigned hearing officer upon a written request for removal, submitted to the city manager's office at least five days prior to the scheduled hearing. One such request shall be automatically granted by the city manager. A request for removal of any subsequent hearing officer shall be directed to the assigned hearing officer who will make an independent decision on whether or not he or she can fairly and objectively review the case. If the assigned hearing officer makes a finding that he or she cannot review the case, he or she will issue a written finding of the reason for his or her decision, and the city administrator shall assign another hearing officer.

(6) *Fees, prepayment required.* A request for hearing is not effective unless the fee is paid within the 20-day time period prescribed. The city has the authority to reduce or waive the fee if the requesting party can demonstrate indigency by clear and convincing evidence. Such

evidence must be provided in writing and can be demonstrated by receipt of means tested government benefits or demonstrated lack of assets or income. Such proof of indigency shall be submitted to the city manager's office with the request for hearing for determination of appropriate fees. The city manager's office shall notify the party requesting reduced fee within 48 hours of the city's determination and full payment of the fee is due 48 hours in advance of the scheduled hearing. If the fee is not paid or the party requesting the hearing has not requested a continuance, or if the requesting party fails to attend the hearing, all costs attributed to the hearing (including the hearing officer's fees) shall be charged to the requesting party (with deduction for any prepaid fees.) The administrative hearing fee may be refunded if the hearing officer determines that no violation occurred. If the hearing officer determines that a violation occurred, the administrative fee shall be applied to the civil fine imposed.

(7) *Continuances.* A party may request a continuance of the scheduled hearing by submitting the form provided by the city at least 48 hours prior to the scheduled hearing and upon a showing of good cause. The request for continuance must specify the basis for the request with a statement of facts supporting good cause and shall be provided to the city manager's office along with a telephone number for immediate response. The city manager's office or employee acting in his or her stead shall either grant or deny the request, in writing, if the request was made at least one week in advance, or by telephone as soon as reasonably possible. If a new hearing date is granted, notice shall be mailed in accordance with section 2-97(4).

(8) *Hearing procedures.* The hearing shall be recorded and each party shall have the opportunity to present testimony, question witnesses, submit documentary evidence in support of his or her case, and object to the other party's evidence or testimony. However, strict rules of evidence shall not apply, and reliable hearsay will be considered at the discretion of the hearing officer based on credibility of the submitted evidence using a reasonable person standard and subject to its probative weight and reliability. In all hearings the city shall have the burden of proving, by a preponderance of the evidence, that the alleged violation occurred and the violator is the person or one of the persons legally responsible. If the alleged violator fails to appear for any scheduled hearing the violation shall be deemed an admission to the violation, the hearing officer shall uphold the fine originally imposed and the violator thereby waives any further right to appeal.

(9) *Authority of the hearing officer.* The hearing officer shall have the ability to:

a. Determine whether a violation occurred and affirm the violation.

b. Dismiss the violation outright for lack of evidentiary support or the city's inability to prove either the violation or that the violator is the person responsible.

c. Impose the suggested civil fine.

d. Reduce, stay or waive the scheduled civil fine either unconditionally or upon compliance with appropriate conditions.

e. Impose additional fines for continuing violations, but only if a specific finding is made that the violation caused a serious threat to public safety or that the violator intentionally and inexcusably refused to comply with this Code.

(10) *Factors considered when imposing fines.* When making a determination of appropriate civil fines, the hearing officer may consider all or some of the following:

a. Nature of the violation.

b. Frequency and duration of the violation, including recurrences.

c. Seriousness of the violation and good faith efforts of the violator.

d. History of the party fined and prior remedial action taken.

e. Conduct before and after the issuance of the notice of hearing.

f. Financial hardship of the violator.

g. Impact of the violation upon the community.

h. Any other factors appropriate to a just result.

(11) *Written report of hearing officer.* The hearing officer shall serve on the parties a written decision including his or her finding of fact, conclusions of law, and concluding decision. The report shall be served within 20 days of the last date of the hearing. The hearing officer's decision is final without further administrative appeal.

(12) *Enforcement of hearing officer's decision.* Upon mailing of the written report of hearing officer, the violator is deemed to have received proper notice of the decision and within 20 days shall:

a. Pay the administrative fine imposed.

b. Commence any corrective action or condition imposed.

c. Request judicial review of the decision.

(13) *Judicial review.* An aggrieved party may obtain judicial review of the decision of the hearing offer by petitioning the Minnesota Court of Appeals for a writ of certiorari pursuant to M.S.A. § 606.01.

(Code 2015, § 19.11; Ord. No. 15-1214-16, § 19.11, 12-14-2015)

Sec. 2-99. Assessment of certain unpaid fines.

Certain unpaid fines for specific property-related violations may be assessed against the property which was the subject matter or related to the subject matter of the civil fine or the property which was the location of the activity, use or delivery of city services which resulted in the civil fine.

(1) *Notice of assessment.* Prior to assessment for an unpaid fine, the city designee shall seek voluntary payment of the fine by notifying the property owner, in writing, of the intended assessment and procedure for making voluntary payment.

(2) *Procedure for assessments.* On or before September 1 of each year, the unpaid civil fine and late fees against the lot or parcel of land of the noticed party, together with a description of the premises and the name of the supposed owner, shall be certified to the county auditor and collected in the same manner as taxes or special assessments against the premises.

(3) *Late fees.* A fee, as provided in the city fee schedule, shall be added to any unpaid civil fine that is more than 45 days overdue, consistent with section 2-74.

(Code 2015, § 19.12; Ord. No. 15-1214-16, § 19.12, 12-14-2015)

Secs. 2-100—2-128. Reserved.

ARTICLE IV. AFFORDABLE HOUSING TRUST FUND

DIVISION 1. GENERALLY

Sec. 2-129. Authority and purpose.

Pursuant to the authority granted to the city under M.S.A. § 462C.16, an affordable housing trust fund (the "housing trust fund") is established to support the development, rehabilitation, or financing of housing, support housing projects, to provide payment assistance, rental assistance, and home buyer counseling services, and for any other purposes authorized by law.

(Ord. No. O-2024-0826-4, § 2-99, 8-26-2024)

Sec. 2-130. Definitions.

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

Affordable means a housing unit that has an affordable housing cost which means an amount satisfied by:

(1) For owner-occupied housing, a housing payment inclusive of loan principal, loan interest, property taxes, property and mortgage insurance, and homeowner association dues which allows a moderate-, low- or very low-income household to purchase a home while paying no more than 30 percent of their gross household income.

(2) For rental or cooperative housing, a housing payment, inclusive of a reasonable allowance for basic utilities, which allows a moderate-, low- or very low-income household to rent a unit while paying no more than 30 percent of their gross household income.

Area median income means the income guidelines established and published annually by the U.S. Department of Housing and Urban Development for the county adjusted for household size.

Assisted unit means a housing unit that is affordable because of assistance from the housing trust fund.

EDA means the economic development authority in and for the city.

Housing trust fund committee means a committee made up of city staff, county staff, two community members appointed by the EDA of the city, and two community members appointed by the EDA of the county.

Low income means gross household income that is at or below 80 percent of area median income but more than 50 percent of area median income.

Mixed income housing means a residential structure that comprises differing levels of affordability, with some units at market rate and others available to low- and moderate-income households at below-market rates.

Moderate income means gross household income that is at or below 115 percent of area median income but more than 80 percent of area median income.

Project means a single-family house (attached or detached) or a multifamily property, either as owner-occupied property or rental property or homeless shelter.

Recipient means any homeowner, for-profit, nonprofit or local unit of government housing developer that receives funds in the form of a loan or a grant from the housing trust fund account. A recipient may be an individual, partnership, local unit of government, joint venture limited liability company or partnership, association or corporation.

Very low income means gross household income that is at or below 50 percent of area median income.
(Ord. No. O-2024-0826-4, § 2-100, 8-26-2024)

Secs. 2-131—2-156. Reserved.

DIVISION 2. HOUSING TRUST FUND ACCOUNT

Sec. 2-157. Source of trust funds.

There is hereby established a housing trust fund account, to be maintained by the EDA. All funds received by the EDA on behalf of the trust fund shall be deposited in the trust fund account. The housing trust fund shall be funded from multiple sources, including, but not limited to:

(1) Private cash contributions designated for the housing trust fund.

(2) Payments in lieu of participation in current or future affordable housing programs.

(3) Grants or loans from the federal or state government.

(4) Principal and interest from trust fund loan repayments and all other income from trust fund activities.

(5) Budgeted payments made by the EDA's tax levy fund as approved by the city council. The EDA may und the trust fund in levy receipts on an annual basis.

(6) Employer-based funds and matches.

(7) Other sources to be considered include contributions made by local or regional utility companies, local cities and county, city/county departments or program funds, townships, nonprofit organizations, and foundations.

(8) Application fees made by those applying for funds.

(9) Appropriations to the housing trust fund by the local government where the project is located.

(10) Tax increments returned to the city after decertification of a tax increment financing (TIF) district.

(11) Any other appropriations as determined from time to time by action of the EDA or city council.

(Ord. No. O-2024-0826-4, § 2-101, 8-26-2024)

Sec. 2-158. Trust fund administration.

(a) The housing trust fund is to function as a resource to fund loans and grants in strict accordance with this article. The EDA shall review and adopt a policy to establish the process and other administrative parameters of the loans and grants permitted by the housing trust fund. No disbursements may be made from the housing trust fund account without the recommendation of the housing trust fund committee and prior approval of the EDA.

(b) Disbursements from the housing trust fund account shall be made as loans or grants to assist recipients in the creation of assisted units and administrative fees not to exceed ten percent. Recipients may use the funds to pay for capital costs, including, but not limited to, the actual costs of rehabilitating or constructing assisted units; preserving affordable units; demolishing or converting existing nonresidential buildings to create new assisted units; real property acquisition costs; rental assistance; landlord incentives; supportive services to stabilize housing; past-due housing expenses; security deposits; down payment and gap assistance; home buyer counseling and educational services; and professional service costs, including, but not limited to, those costs incurred for architectural, engineering, planning and legal services which are attributable to the creation of assisted units.

(c) The EDA will enter into loan and grant agreements with the recipients of the housing trust fund monies. Each agreement will clearly state the conditions and requirements for the recipient's use of housing trust fund monies, including the term of compliance, transfer or sale requirements and other requirements as specified.

(d) The EDA shall, within 30 days following the close of each fiscal year, prepare and submit an annual report to the city and state housing on the activities undertaken with funds from the housing trust fund. The report shall specify the number and types of units assisted; the amount loaned or granted per assisted unit; the amount of state, federal and private funds leveraged; the geographic distribution of assisted units; and a summary of statistical data relative to the incomes of assisted households, including their monthly rent or mortgage payments, and the sales prices of owner-occupied assisted units.

(Ord. No. O-2024-0826-4, § 2-102, 8-26-2024)

Chapter 3

ALCOHOLIC BEVERAGES

Article I. In General

Sec. 3-1. State law adopted.
Sec. 3-2. Definitions.
Secs. 3-3—3-22. Reserved.

Article II. Licenses and Permits

Division 1. Generally

Secs. 3-23—3-47. Reserved.

Division 2. Intoxicating Liquor Licenses

Sec. 3-48. License required.
Sec. 3-49. On-sale licenses.
Sec. 3-50. Off-sale liquor license.
Sec. 3-51. Sunday liquor licenses.
Sec. 3-52. On-sale wine license.
Sec. 3-53. Brewery/taproom license.
Sec. 3-54. Bottle club permits.
Sec. 3-55. Microdistilleries; distilled spirit manufacturers; cocktail rooms.
Sec. 3-56. Brewpub off-sale intoxicating malt liquor license.
Sec. 3-57. Small brewer off-sale license.
Sec. 3-58. Sunday growler off-sale intoxicating license.
Sec. 3-59. Culinary liquor license.
Secs. 3-60—3-76. Reserved.

Division 3. Malt Liquor Licenses

Sec. 3-77. Required.
Sec. 3-78. On-sale licenses.
Sec. 3-79. Off-sale licenses.
Sec. 3-80. Sale by manufacturer.
Secs. 3-81—3-103. Reserved.

Division 4. Non-Enclosed Premises

Sec. 3-104. Application to include non-enclosed area in licensed premises.
Sec. 3-105. Review by site plan review committee.
Sec. 3-106. Standards and specifications.
Sec. 3-107. Violations impact principal license.
Secs. 3-108—3-127. Reserved.

Division 5. Temporary Licenses

Sec. 3-128. On-sale intoxicating, or 3.2 percent malt liquor license.

Sec. 3-129. Expansion of liquor license.
Secs. 3-130—3-156. Reserved.

Article III. Procedure

Sec. 3-157. Application for license.
Sec. 3-158. Issuance of license.
Sec. 3-159. Restrictions on issuance.
Sec. 3-160. Conditions of license.
Sec. 3-161. Adult uses.
Sec. 3-162. Times when sales are prohibited.
Sec. 3-163. Closing of establishment.
Sec. 3-164. Sanctions; suspension or revocation.

ARTICLE I. IN GENERAL

Sec. 3-1. State law adopted.

The provisions of M.S.A. ch. 340A, relating to the definition of terms, are adopted and made a part of this chapter as if set out in full. It is the intention of the city council that all future amendments to M.S.A. ch. 340A are adopted by reference as if they had been in existence at the time the ordinance from which this chapter was derived was adopted.
(Code 2015, § 4.02; Ord. No. 16-1212-17, § 4.02, 12-12-2016)

Sec. 3-2. Definitions.

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

Criminal background check means an inquiry into public criminal arrest data, for 15 years prior to the inquiry or search period of time as may be specified from time to time by the state bureau of criminal apprehension, of the city department of public safety and the state criminal justice information system information obtained through the state bureau of criminal apprehension. Criminal background checks will be conducted as set forth in section 6-22.

Entrée means the main dish of a meal.

Full kitchen means a facility that contains commercial grade burners, ovens, range hoods and refrigeration units of such size and capacity to accommodate the seating of the restaurant and is classified as a high- or medium-risk establishment under M.S.A. § 157.20, subd. 2a.

Heavy hors d'oeuvres means a minimum of four hors d'oeuvre selections which provide guests more of a meal, but in the form of hors d'oeuvres, that leave guests satisfied or full. As an example, heavy hors d'oeuvres will be more than chips and dip, or popcorn.

Hors d'oeuvres means a small savory dish eaten at the start of a meal.

Hotel means an establishment where food and lodging are regularly furnished to transients, and which has:

(1) A dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; or

(2) Guest rooms in the following minimum numbers: in first class cities, 50; in second class cities, 15; in all other cities and unincorporated areas, ten.

Licensed premises means the premises described in the approved license application, subject to the provisions of M.S.A. § 340A.410, subd. 7. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, licensed premises means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Licensee includes a person, firm, association, sole proprietorship, stock corporation, co-operative organization or other entity, however organized, including the management and officers there under, that is awarded a liquor license by the city.

Liquor service manager means the license holder, their agent or any other individual responsible for overseeing the daily operations of the establishment and for compliance with state and local laws.

Local contact means the persons required to be on the premises of the establishment daily, who is familiar with daily operations, and who is available for contact by city officials and law enforcement in emergency and nonemergency situations.

Malt liquor or *beer* means any beverage made from malt by fermentation, or by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, molasses, or other malt substitute that has not undergone distillation, and that contains not less than one-half percent alcohol by volume.

Restaurant means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for guests as prescribed by the appropriate license issuing authority.

Strike means a penalty issued for failing to comply with a licensing requirement, city ordinance, or state statute.

Theater means a building containing an auditorium in which live dramatic, musical, dance, or literary performances are regularly presented to holders of tickets for those performances.
(Code 2015, § 4.03; Ord. No. 16-1212-17, § 4.03, 12-12-2016; Ord. No. 20-1109-7, § 4.03, 11-9-2020; Ord. No. O-2022-1128-17, § 4.03, 11-28-2022; Ord. No. O-2024-0122-1, § 4.03, 1-22-2024)

Secs. 3-3—3-22. Reserved.

ARTICLE II. LICENSES AND PERMITS

DIVISION 1. GENERALLY

Secs. 3-23—3-47. Reserved.

DIVISION 2. INTOXICATING LIQUOR LICENSES

Sec. 3-48. License required.

Except as provided in M.S.A. § 340A.401, it is unlawful for any person, directly or indirectly, upon any pretense or by any device to sell, exchange, barter or keep for sale any intoxicating liquor without first having obtained a yearly license therefor from the city.
(Code 2015, § 4.04(1); Ord. No. 16-1212-17, § 4.04(1), 12-12-2016)

Sec. 3-49. On-sale licenses.

(a) *Generally.* On-sale licenses will be issued only to hotels, restaurants (including restaurants operated in the place of a manufacturer of a brewer licensed pursuant to M.S.A. § 340A.301, subd. 1), exclusive liquor stores, and clubs, and will permit on-sales of liquor only.

(b) *Prerequisite percentage of food sales.* Except as otherwise provided in this section, no on-sale license shall be issued or renewed for any licensee that cannot demonstrate at least 20 percent of their gross sales from the serving of food prepared and consumed on the licensed premises after 12 months of operation. Licensees must submit a certified statement from an independent accountant, on the accountant's letterhead, stating that the establishment meets the requirements after 12 months of operation.

(c) *Class R, restaurant.* A premises licensed for on-sale liquor that derives 40 percent or more of its gross sales from the serving of food, prepared and consumed on the premises with an occupancy limit of under 400. If the occupancy limit is over 400, the licensee may be subject to an occupancy fee as established by resolution of the city council and provided in the city fee schedule. Upon request, the licensee must submit a certified statement from an independent accountant, on the accountant's letterhead, stating that the establishment meets the requirements for a Class R, restaurant, designation with the license renewal application. This information must be verified against wholesale receipts from vendors.

(1) A restaurant must have a full kitchen and offer a full menu until at least 10:00 p.m. If not offering a full menu during the hours of operation, a limited menu must be offered after 10:00 p.m. consisting of at least four entrees.

(2) All new establishments in the central business districts (CBD-C and CBD-F) must achieve a minimum of 40 percent food requirement to qualify for a Class R, restaurant, license. Failure to meet the minimum of 40 percent food requirement may result in revocation or suspension of the license.

(d) *Class RO, restaurant other.*

(1) A premises licensed for on-sale liquor where the service of alcohol is incidental or secondary to the serving of food and some other type of activity (examples include billiard hall, indoor golf center, ballroom, etc.). The term "incidental or secondary" means those establishments that both:

a. Sell and serve alcoholic beverages for consumption on the premises; and

b. Utilize ten percent or less of the gross floor area for the sale, display, and storage of alcoholic beverages for consumption on the premises.

(2) For the purposes of this article, a bona fide restaurant shall not be considered an incidental on-sale alcoholic beverage establishment. This definition shall not include tasting rooms operated as an incidental use to a liquor license issued per M.S.A. § 340A.301. Licensees should have an occupancy under 400. If the occupancy limit is over 400, the licensee may be subject to an occupancy fee in the amount provided in the city fee schedule.

(e) *Class B, bar.* A premises licensed for on-sale that derives a minimum of 20 percent of its gross sales from the serving of food, prepared and consumed on the premises with an occupancy limit of under 400. If the occupancy limit is over 400, the licensee may be subject to an occupancy fee as established by resolution of the city council and provided in the city fee schedule. Upon request, the licensee must submit a certified statement from an independent accountant, on the accountant's letterhead, stating that the establishment meets the requirements for a Class B, bar, designation with the license renewal application. This information must be verified against wholesale receipts from vendors. A bar must have a full kitchen and offer a full menu until at least 10:00 p.m. If not offering a full menu during the hours of operation, a limited menu must be offered after 10:00 p.m. consisting of at least two entrees. The on-sale licensed establishments without food service that were grandfathered in when the changes to this chapter were passed in 2007 will continue to be allowed to renew with a Class B license at the existing location and under the existing ownership. A change in ownership at the existing location will be allowed. A transfer of location or expansion of the licensed premises by the license holder will also be allowed. No new Class B licenses shall be issued in the central business districts (CBD-C and CBD-F).

(f) *Class O, other.* A premises licensed as a Class O, other, shall be permitted as allowed in M.S.A. § 340A.404, and shall include bowling centers, hotels, theaters, or conventions centers; however, hotels must meet the statutory definition in state statutes, as it relates to the serving of food in a dining room and a minimum number of guests. Licenses should have an occupancy under 400; if the occupancy limit is over 400, the licensee may be subject to an occupancy fee in the amount provided in the city fee schedule.

(g) *Class N, new.* A licensee of an on-sale liquor license that has not established, through 12 months of operation, a ratio of revenues derived from the sales of food and liquor is eligible for a Class N license. At least 12 months of sales must be used to establish the ratio of food to liquor in order for a licensee to be licensed as a restaurant, bar, or other (R, RO, B, or O) class. If the occupancy limit is over 400, the licensee may be subject to an occupancy fee as established by resolution of the city council and provided in the city fee schedule. Applicants for a Class N license are subject to an investigation fee, as provided in the city fee schedule and pursuant to M.S.A. § 340A.412, subd. 2, as it may be amended from time to time.

(h) *Catering.* Only those establishments holding an on-sale intoxicating liquor license issued by the city, along with a caterer's permit issued in accordance with M.S.A. § 340A.404, subd. 12, shall be eligible to cater with liquor in the city.

(1) The issuance of a caterer's permit does not allow a license holder to, in effect, operate a permanent on-sale intoxicating liquor establishment; rather it entitles the license holder to provide temporary service of alcoholic beverages as an incidental part of a food service apart from the licensee's permanent location.

(2) A minimum of heavy hors d'oeuvres will be provided and prepared by the liquor license holder for any event where they are not the caterer of the main meal, or they are the only food provider, or there is no main meal.

(3) Licensees shall submit a notification form to public safety of any catering event with alcohol service, at a minimum of 72 hours prior to the event, to include location of the event, date and time the event is scheduled to begin and end, types of food being served.

(Code 2015, § 4.04(2); Ord. No. 16-1212-17, § 4.04(2), 12-12-2016; Ord. No. 20-1109-6, § 4.04(2), 11-9-2020; Ord. No. O-2024-0122-1, § 4.04, 1-22-2024)

Sec. 3-50. Off-sale liquor license.

Off-sale liquor licenses may be issued only to exclusive liquor stores as allowed by M.S.A. § 340A.405, as may be amended from time to time. The annual license fee shall be as allowed in M.S.A. § 340A.408, as may be amended from time to time. The fee set by the jurisdiction issuing the license shall be reduced by $100.00 if conditions specified by M.S.A. § 340A.408, subd. 3(c), are met.

(Code 2015, § 4.04(3); Ord. No. 16-1212-17, § 4.04(3), 12-12-2016)

Sec. 3-51. Sunday liquor licenses.

Sunday liquor licenses may be issued to establishments that are eligible for Sunday licenses pursuant to M.S.A. § 340A.504, as it may be amended from time to time, and may begin serving alcoholic beverages at 8:00 a.m. on Sundays unless the licensee is restricted by another provision of this chapter. It is unlawful to sell, directly or indirectly, intoxicating liquor on Sunday without a Sunday license issued by the city.

(Code 2015, § 4.04(4); Ord. No. 16-1212-17, § 4.04(4), 12-12-2016)

Sec. 3-52. On-sale wine license.

(a) On-sale wine licenses will be issued for the sale of wine of up to 24 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. An on-sale wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time. Any wine license issued by the city shall authorize the sale of wine seven days a week unless a restriction by the governing body, set forth on the license, prohibits the sale of wine on Sunday. The holder of an on-sale wine license who is also licensed to sell on-sale 3.2 percent malt liquors may sell intoxicating malt liquors at on-sale without an additional license. Licenses under this section are not valid unless first approved by the commissioner of public safety.

(b) Prior to the renewal of any wine license issued pursuant to this section, the licensee shall provide the city proof that the service of food constituted 40 percent or more of the gross sales of the business during the 12-month period preceding the date the license is to be renewed.

(Code 2015, § 4.04(5); Ord. No. 16-1212-17, § 4.04(5), 12-12-2016; Ord. No. 20-1109-7, § 4.04(5), 11-9-2020)

Sec. 3-53. Brewery/taproom license.

(a) A brewer licensed under M.S.A. § 340A.301 may be issued an on-sale liquor license for the on-sale of malt liquor subject to the following conditions:

(1) The on-sale of malt liquor may only be made during the days and hours that on-sale of liquor may be made as prescribed by state law.

(2) A brewer may only hold one brewer taproom license within the city.

(3) The only alcoholic beverage that may be sold or consumed on the premises of a brewery taproom will be the malt liquor produced by the brewer upon the brewery taproom premises.

(4) Licensed brewer taprooms may operate a restaurant on the premises without additional licensure; however, this type of license is exempt from maintaining minimum food service requirements.

(b) A brewery taproom license may not be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews or produces more than 250,000 barrels of malt liquor annually, or a winery that produces more than 250,000 gallons of wine annually, as defined and prescribed by M.S.A. § 340.301.

(Code 2015, § 4.04(6); Ord. No. 16-1212-17, § 4.04(6), 12-12-2016)

Sec. 3-54. Bottle club permits.

(a) A permit issued under this section authorizes the establishment to permit the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.

(b) It is unlawful for any bottle club or for any business establishment, directly or indirectly, or upon any pretense or by any device, to allow the consumption or display of intoxicating liquor or the serving of any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit therefor, issued by the state commissioner of public safety after approval by the city council.

(c) Regulations.

(1) *Label.* Every bottle, container or other receptacle containing intoxicating liquor stored by a member of a bottle club shall have attached thereto a label signed by the member of the club.

(2) *Storage.* Any liquor on the premises of the bottle club shall be labeled, as required herein, and any liquor not actually used or consumed by the owner thereof shall be kept in a locker designated to the use of such member.

(3) *Minors.* It is unlawful for any club member under 21 years of age to be assigned a locker for the storage of intoxicating liquor or to consume or display or be permitted to consume or display any intoxicating liquor on any premises owned or controlled by such club.

(4) *Hours of consumption or display.* It is unlawful to consume or display, or allow consumption or display of intoxicating liquor in any bottle club or other business establishment between the hours of 1:00 a.m. and 8:00 a.m.

(5) *Right of inspection.* Any bottle club or business establishment allowing the consumption or display of liquor shall be open for inspection at all times by a public safety officer or other authorized city employee or agent. It is unlawful to refuse to permit any such public safety officer or authorized city employee or agent to inspect such premises.

(Code 2015, § 4.04(7); Ord. No. 16-1212-17, § 4.04(7), 12-12-2016)

Sec. 3-55. Microdistilleries; distilled spirit manufacturers; cocktail rooms.

(a) *Activities.*

(1) A microdistillery licensed under this section may provide on its premises samples of distilled spirits manufactured on its premises, in an amount not to exceed 15 milliliters per variety per person. No more than 45 milliliters may be sampled under this section by any person on any day.

(2) A microdistillery or distilled spirits manufacturer can sell cocktails to the public, pursuant to subsection (b) of this section.

(3) A microdistillery or distilled spirits manufacturer may not operate a cocktail room under subsection (b) of this section or conduct sales at off-sale under section 3-56, unless at least 50 percent of the annual production of the licensee is processed and distilled on premises.

(4) For the purposes of calculating annual production under subsection (a)(3) of this section, distilled spirits that are bottled by the licensee under a contract bottling agreement with a third party are excluded from the licensee's annual production if the:

a. Third-party contractor is an independent entity that is not owned or controlled by the licensee;

b. Distilled spirits bottled under a third-party contract are not available for sale or marketed by the licensee or the third party at any location licensed under subsection (b) of this section or section 3-56; and

c. Distilled spirits bottled under a third-party contract are available for distribution by wholesalers.

(5) Distilled spirits produced or in production prior to July 1, 2017, are not counted as part of the calculations under subsection (a)(3) of this section.

(b) *Cocktail room license.*

(1) A municipality may issue the holder of a microdistillery license or distilled spirits manufacturer license under this section a microdistillery or distilled spirits manufacturer cocktail room license. A microdistillery or distilled spirits manufacturer cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. Notwithstanding M.S.A. § 340A.504, subd. 3, a cocktail room may be open and may conduct on-sale business on Sundays if authorized by the municipality. Nothing in this subsection precludes the holder of a microdistillery or distilled spirits manufacturer cocktail room license from also holding a license to operate a restaurant at the distillery. M.S.A. § 340A.409 shall apply to a license issued under this subsection (b). All provisions of this chapter that apply to a retail liquor license shall apply to a license issued under this subsection (b) unless the provision is explicitly inconsistent with this subsection (b).

(2) A distiller may only have one cocktail room license under this section and may not have an ownership interest in a distillery licensed under M.S.A. § 340A.301, subd. 6(a).

(3) The municipality shall impose a licensing fee, as provided in the city fee schedule, on a distiller holding a microdistillery or distilled spirits manufacturer cocktail room license under this subsection, subject to limitations applicable to license fees under M.S.A. § 340A.408, subd. 2(a).

(4) A municipality shall, within ten days of the issuance of a license under this subsection, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The municipality shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

(5) No single entity may hold both a cocktail room and taproom license, and a cocktail room and taproom may not be colocated.

(c) *Microdistillery off-sale license.* A microdistillery off-sale license may be issued to the holder of a microdistillery license issued under M.S.A. § 340A.22. The license permits the sale of up to a total of 750 milliliters per customer per day of product manufactured on site, in any size container or combination of approved containers subject to the following requirements:

(1) Off-sale hours shall be limited to the legal hours for off-sale.

(2) No brand may be sold at the microdistillery unless it is also available for distribution by wholesalers.

(3) The commissioner may approve any standard fill as approved by the Alcohol and Tobacco Tax and Trade Bureau.

(4) The commissioner may by rule establish reporting requirements for microdistilleries making off-sales of distilled spirits under this subsection to ensure compliance with the 750 milliliter limit.

(Code 2015, § 4.04(8), (9); Ord. No. O-2021-0809-6, § 4.04(8), (9), 8-9-2021; Ord. No. O-2022-1128-17, § 4.04(8), (9), 11-28-2022)

Sec. 3-56. Brewpub off-sale intoxicating malt liquor license.

A brew pub off-sale intoxicating malt liquor license may be issued to a brewer who holds a brewer license issued by the state commissioner of public safety for the operation of a brewpub and shall operate in and as part of a restaurant establishment for which an on-sale intoxicating liquor license has been issued by the city.

(1) An off-sale license may be issued solely for the malt liquor produced and packaged on the licensed premises and only upon approval of the license by the state commissioner of public safety.

(2) Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores and must be removed from the licensed premises before the applicable off-sale closing time requirements.

(3) Only malt liquor may be brewed or manufactured at the licensed premises and not more than 3,500 barrels of malt liquor in a calendar year may be brewed or manufactured on the licensed premises.

(4) The malt liquor sold off-sale shall be packaged in 64-ounce containers commonly known as "growlers" and shall have the following requirements for packaging:

a. The containers shall bear a twist-type closure, cork, stopper, or plug.

b. At the time of sale, a paper or plastic adhesive band, strip or sleeve shall be applied to the container and extend over the top of the twist type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container.

c. The adhesive band, strip, or sleeve shall bear the name and address of the brewer/licensee selling the malt liquor.

d. The containers shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer/licensee selling the malt liquor, and the contents in the container packaged as required herein shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with provisions of Minn. R. pt. 7515.1100.

(Code 2015, § 4.04(10); Ord. No. 16-1212-17, § 4.04(8), 12-12-2016; Ord. No. O-2022-1128-17, § 4.04(10), 11-28-2022)

Sec. 3-57. Small brewer off-sale license.

(a) A small brewer off-sale license authorizes a micro-brewery that manufactures less than 150,000 barrels of malt liquor per year to sell malt liquor to the public in 64-ounce containers, commonly known as "growlers," or in 750-milliliter bottles as permitted by M.S.A. § 340A.301. The amount of malt liquor sold at off-sale may not exceed 750 barrels annually; off-sale shall be limited to the legal hours for off-sale at exclusive liquor stores, and the off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores.

(1) The malt liquor shall be packed in 64-ounce containers commonly known as "growlers" or in 750-milliliter bottles. The containers or bottles shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extended over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle. The adhesive band, strip, or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minn. R. pt. 7515.1100.

(2) A brewer may, but is not required to, refill any growler with malt liquor for off-sale at the request of a customer. A brewer refilling a growler must do so at its license premises and the growler must be filled at the tap at the time of sale. A growler filled under this section must be sealed and labeled in the manner described in subsection (a)(1) of this section.

(3) A brewer may only have one license under this subsection.

(4) The city may not issue a license under this subsection to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or

exercising control over the brewer seeking the license, is a brewer that brews more than 150,000 barrels of its own brands of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(b) Certain small brewer off-sale. Notwithstanding any law to the contrary, and in addition to the off-sale of malt liquor allowed under M.S.A. § 340A.28, a brewer licensed under M.S.A. § 340A.301, subd. 6, clause (c), (i), or (j), that produces 7,500 barrels or less of malt liquor annually may be issued a license by the city for off-sale at its licensed premises of up to 128 ounces per customer per day of malt liquor that has been produced and packaged by the brewer, as provided in subsection (a) of this section. The license must be approved by the commissioner. The amount of malt liquor sold at off-sale under this section must be included in calculating the annual barrel limit imposed in M.S.A. § 340A.28, subd. 1.

(1) *Packaging.* Malt liquor authorized for off-sale pursuant to subsection (b) of this section must be packaged in a container, or combination of containers, that are in compliance with the provisions of Minn. R. pts. 7515.1080 through 7515.1120.

(2) *Off-sale not exclusive to brewery premises.* Any brand under this section must be made available for sale to a malt liquor wholesaler, other than a wholesaler owned in whole or in part by a brewer as allowed in M.S.A. § 340A.301, subd. 9.

(3) *Reporting.* The commission may by rule establish reporting requirements for brewers making off-sales of malt liquor under this section to ensure compliance with the 128-ounce limit in subsection (b) of this section.

(4) *Other laws.* All other requirements of M.S.A. ch. 340A, not consistent with this section, apply.
(Code 2015, § 4.04(11); Ord. No. 16-1212-17, § 4.04(9), 12-12-2016; Ord. No. O-2022-1128-17, § 4.04(11), 11-28-2022)

Sec. 3-58. Sunday growler off-sale intoxicating license.

A Sunday growler off-sale intoxicating license authorizes a small brewer that manufactures less than 150,000 barrels of malt liquor per year to sell malt liquor to the public in 64-ounce containers, commonly known as "growlers," or in 750-milliliter bottles as permitted by M.S.A. § 340A.301, on Sundays between the hours of 8:00 a.m. and 10:00 p.m.
(Code 2015, § 4.04(12); Ord. No. 16-1212-17, § 4.04(10), 12-12-2016; Ord. No. O-2022-1128-17, § 4.04(12), 11-28-2022)

Sec. 3-59. Culinary liquor license.

A limited on-sale intoxicating liquor license may be issued to a business establishment that is not otherwise eligible for an on-sale intoxicating liquor license and that as part of its business conducts culinary or cooking classes for which payment is made by each participant or advance registration required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.
(Code 2015, § 4.04(13); Ord. No. 16-1212-17, § 4.04(11), 12-12-2016)

Secs. 3-60—3-76. Reserved.

DIVISION 3. MALT LIQUOR LICENSES

Sec. 3-77. Required.

Except as provided in M.S.A. ch. 340A, as it may be amended from time to time, it is unlawful for any person, directly or indirectly, upon any pretense or by any device to sell, exchange, barter or keep for sale any 3.2 percent malt liquor without first having obtained a license therefor from the city.
(Code 2015, § 4.05(1); Ord. No. 16-1212-17, § 4.05(1), 12-12-2016)

Sec. 3-78. On-sale licenses.

On-sale 3.2 percent malt liquor licenses may only be issued to drugstores, restaurants, hotels, clubs, bowling centers, golf courses, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
(Code 2015, § 4.05(2); Ord. No. 16-1212-17, § 4.05(2), 12-12-2016; Ord. No. 20-1109-7, § 4.05(2), 11-9-2020)

Sec. 3-79. Off-sale licenses.

Off-sale licenses will permit the sale of 3.2 percent malt liquor at retail, in the original package, for consumption off the premises only.
(Code 2015, § 4.05(3); Ord. No. 16-1212-17, § 4.05(3), 12-12-2016)

Sec. 3-80. Sale by manufacturer.

A manufacturer of 3.2 percent malt liquor may sell such liquor without a license to licensed dealers holding either on-sale or off-sale licenses, and may sell and deliver 3.2 percent malt liquor, in quantities of not less than two gallons, direct to consumers at their homes. Such manufacturer or any affiliated subsidiary company will not sell 3.2 percent malt liquor except as prescribed in this division. An affiliated or subsidiary company will be one in which such manufacturer or its stockholders own a majority of the stock.
(Code 2015, § 4.05(4); Ord. No. 16-1212-17,§ 4.05(4), 12-12-2016)

Secs. 3-81—3-103. Reserved.

DIVISION 4. NON-ENCLOSED PREMISES

Sec. 3-104. Application to include non-enclosed area in licensed premises.

An applicant may make application to have an area that is contiguous to the completely enclosed licensed premises included in the area licensed to permit the sale and consumption of intoxicating and 3.2 percent malt liquor in such contiguous area that is not wholly within a completely enclosed

building. The completed application shall be submitted to the city and distributed to the department of public safety and community development, planning division, for review and comment and then be reviewed by the site plan review committee prior to submission to the city council.
(Code 2015, § 4.06(intro. ¶), (1); Ord. No. 16-1212-17, § 4.06((intro. ¶), (1), 12-12-2016)

Sec. 3-105. Review by site plan review committee.

The site plan review committee shall review the suitability of the proposed non-enclosed premises in light of the applicable fire, building and life safety codes, zoning ordinances, urban design standards, past performance of the licensee in maintaining order on the licensed premises and obeying applicable laws, the adequacy of the proposal to provide for the safety of persons on the premises, impact on the surrounding premises, adequacy of lighting, appropriateness of noise levels, suitability of ingress and egress arrangements including control of persons entering and leaving for the purposes of preventing consumption by minors and safety of seating arrangements.
(Code 2015, § 4.06(1); Ord. No. 16-1212-17, § 4.06(1), 12-12-2016)

Sec. 3-106. Standards and specifications.

(a) *Generally.* All non-enclosed areas must meet urban design standards set forth in section 10-440 and comply with section 10-1494.

(b) *Hours of sale.* Sales of liquor in the licensed area is limited to the hours authorized at the permanent premises. Licensees, employees, and agents of any licensee, will not serve, dispense or in any manner furnish intoxicating and 3.2 percent malt liquor in the licensed area at any other time or permit the presence of any open bottle or receptacle containing intoxicating and 3.2 percent malt liquor in the licensed area within 15 minutes after the expiration of the time of any day when liquor may be legally sold. Sales are not permitted in the licensed area during these times and on these days if otherwise prohibited by the provisions of this chapter.

(c) *Supervision.* A liquor service manager will be assigned, at all times of operation, the responsibilities of supervision of the activities within the licensed area.

(d) *Live entertainment prohibited.* There shall be no live music allowed on non-enclosed premises, except in the case of a special event which has prior approval from the city manager.

(e) *Insurance.* Any establishment offering non-enclosed premises liquor service must file with the city clerk evidence of insurance insuring against liability imposed by law arising out of the ownership, maintenance or operation of such liquor service. The certificate must state that all coverage afforded to the enclosed premises is extended to the non-enclosed premises. The certificate must further state that coverage may not be cancelled except upon ten days' written notice filed with the city clerk. Sale of liquor within the non-enclosed premises must cease at any time the required insurance is not in place.

(f) *No expectation of renewal.* Any licensing of a non-enclosed premises shall be deemed experimental and as such, no expectation shall be had by the licensee that the licensing of the non-enclosed premises will be renewed even though no misconduct occurred on the non-enclosed premises.
(Code 2015, § 4.06(1)(A), (1)(B)(1)—(5); Ord. No. 16-1212-17, § 4.06(1)(A), (1)(B)(1)—(5), 12-12-2016)

Sec. 3-107. Violations impact principal license.

Any violations of the provisions of this division allowing non-enclosed licensing, or of state law regulating the sales of liquors which occur in the licensed area, will be considered as violations of the principal on-sale license for the premises.
(Code 2015, § 4.06(1)(B)(6); Ord. No. 16-1212-17, § 4.06(1)(B)(6), 12-12-2016)

Secs. 3-108—3-127. Reserved.

DIVISION 5. TEMPORARY LICENSES

Sec. 3-128. On-sale intoxicating, or 3.2 percent malt liquor license.

(a) The city council may issue to any club, charitable, religious or other nonprofit corporation, which corporation is organized and existing under the laws of the state that has been in existence for at least three years, a temporary on-sale intoxicating or a temporary on-sale 3.2 percent malt liquor license to sell liquor for consumption on premises specified in the license, including school buildings and school grounds. Such license shall be issued for a period not to exceed four consecutive days in duration.

(b) No individual organization shall be granted more than three four-day, four three-day, six two-day, or 12 one-day licenses in any combination not to exceed 12 days per calendar year.

(c) Application for temporary on-sale liquor license shall be made on forms provided by the city clerk and shall contain the following:

(1) The name, address and purpose of the organization, together with the names and addresses of officers and evidence of nonprofit status.

(2) The purpose for which the temporary on-sale liquor license is sought, together with the place, dates and hours during which liquor is to be sold.

(3) Written informed consent of the owner or manager of the premises, or a person or group with lawful responsibility for the premises.

(4) A specified description of the area in which alcoholic beverages are to be dispensed and consumed.

(5) Such other information as the city clerk may deem necessary.
(Code 2015, § 4.08(1); Ord. No. 16-1212-17, § 4.08(1), 12-12-2016)

Sec. 3-129. Expansion of liquor license.

(a) On-sale liquor, wine and beer establishments may obtain a temporary expansion of liquor license for premises directly adjacent and contiguous to the permanently licensed premises, for entertainment not otherwise allowed under the establishment's permanent license.

(b) Application for a temporary expansion of liquor license shall be made on forms provided by the city clerk and shall contain the following:

(1) The names and addresses of the on-sale license holder and its owners, officers or partners.

(2) A specific description and diagram of the area in which the temporary expansion activity is to occur. This area must be contained by physical enclosure devices.

(3) Written informed consent of the owner or manager of the premises, or a person or group with lawful responsibility for the premises.

(4) The purpose for which the temporary expansion is sought, and a detailed description of the planned activities, including projected attendance, entertainment, food and beverage service, security plans, and hours of operation.

(5) Notification of amplified music, short-term food, traffic control, temporary structures, temporary utilities, etc., as required.

(6) Such other information as the city clerk may deem necessary.

(c) Temporary expansion of liquor license shall be subject to the following limitations and restrictions:

(1) *Term.* An individual licensee may be granted up to 12 temporary expansion licenses for the duration of not more than two consecutive days so as not to exceed 24 days in any 12-month period. The limitation on the number of temporary expansion licenses granted in a 12-month period may be waived by the city clerk for special events.

(2) *Insurance.* The applicant shall file proof that the liability insurance required by this chapter and by M.S.A. ch. 340A apply to the expanded area.

(3) *Time.* The hours of operation of a temporary expansion liquor license shall not exceed those hours authorized at the permanent premises, or any lesser hours specified as a condition of the temporary off-premises expansion of premises license.

(4) *Food service.* The licensee which is the holder of the on-sale license must have facilities for serving not less than 30 guests at one time and must maintain an adequate staff, including a cook whose duties must include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant.

(5) *Supervision.* A liquor service manager will be assigned, at all times of operation, the responsibilities of supervision of the activities within the licensed area.

(d) Licenses issued under this section are subject to all laws and ordinances governing the sale of intoxicating liquor except those laws and ordinances which, by their nature, are not applicable. (Code 2015, § 4.08(2); Ord. No. 16-1212-17, § 4.08(2), 12-12-2016)

Secs. 3-130—3-156. Reserved.

ARTICLE III. PROCEDURE

Sec. 3-157. Application for license.

(a) *Forms.* Every application for a license issued under this article shall be on a form provided by the city as may be prescribed by the state commissioner of public safety. Every application shall be filled out completely with all information requested. It is unlawful for any person to intentionally make any false statement or to intentionally omit any required information in the completion of any liquor license application form. Any such false statement or omission shall render such application, or any license issued pursuant thereto, invalid and of no effect. The application will be verified, and any person who willfully makes any false statement in an application for a license, or who willfully deceives, or attempts to deceive, the city council or any city official by any statement or answer made in connection with an investigation, will be in violation of the provisions of this chapter.

(1) *Contents of application.* All application forms shall be submitted to the city clerk. In addition to the information which may be required by the state liquor control commissioner's form, the application will contain the following:

a. Full name, place, and date of birth, and street residence address of applicant, managers, and local contacts.

b. Street addresses at which the applicant, managers and local contacts, to be employed at the licensed establishment, have resided for the previous five years.

c. Whether the applicant, managers, or local contacts have ever used or been known by a name other than his or her present name, and if so, what such names were and information concerning dates and places where such names were used.

d. Whether the applicant, managers, or local contacts have been convicted of a crime, if so, the applicant or manager shall furnish information as to the time, place and offense resulting in the conviction.

e. Such other information as the city clerk may deem necessary.

(2) *Background investigation on applicants, managers, and local contacts.* The department of public safety shall conduct a criminal record check and a driver's license record check on the applicant, managers, and local contacts who provide a signed consent for release of information (see section 6-22). The consent for release of information form shall contain the following:

a. Notification to the applicant, manager, and local contact that the city department of public safety will conduct a criminal record check;

b. Notification of the right to view data obtained from a criminal record check;

c. Notification of the right to challenge the accuracy and completeness of the criminal record check; and

d. Notification of the right to be informed if the application for liquor licensing has been denied based on information contained in the criminal record check.

(3) *New construction or alteration of existing structures.* Whenever the application for an on-sale license to sell intoxicating liquor is for premises on which new construction or the alteration of an existing structure is to occur, the application will be accompanied by a set of preliminary plans showing the interior and exterior design, including site and space allocation and utilization.

(4) *Corporate applicants.*

a. A corporate applicant, at the time of the application, shall furnish the city with a list of all persons who have an interest in such corporation and the extent of such interest. The list shall name all the shareholders and shall show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the city of any change in legal ownership or beneficial interest in such corporation or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee which results in the change of voting control of the corporation by the persons owning the shares therein shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked 30 days after any such change in ownership or beneficial interest of shares unless the council has been notified of the change in writing and has approved it by appropriate action.

b. Audit. Any officer of the city designated by the city manager may at any reasonable time examine the stock transfer records and minute books of the corporate licensee in order to verify and identify the shareholders. The designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The council may revoke or deny renewal of any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other licensee has actually resulted in the change of control of the licensed business so as to materially affect the integrity and character of its management and its operation.

(b) *Investigation fee.* At the time of each original application for an intoxicating or 3.2 percent malt liquor license, required by the provisions of this chapter, or at the time of any application for the transfer of an existing license, the applicant will pay in full an investigation fee. The investigation fee is not applicable towards payment of the license for which application is made, and is not refundable if the application is denied or withdrawn. The investigation fee shall be established by resolution of the city council and as provided on the city fee schedule.

(c) *Insurance required.*

(1) Every applicant for or holder of an on-sale or off-sale license required by this chapter for the sale of intoxicating liquor, wine or 3.2 percent malt liquor, shall file with the city clerk, and shall maintain for the effective period of such license evidence of a liability insurance policy for the licensed premises, including non-enclosed areas, providing coverage in the amount of $50,000.00 for damages to one person, and $100,000.00 to two or more persons and $10,000.00 because of injury to or destruction of property to others arising out of a single

incident, $50,000.00 for loss of means of support of any one person in any single incident, and $100,000.00 for loss of means of support for two or more persons in any single incident, which policy shall specifically provide for the payment by the insurance company on behalf of the insured of such amounts which the insured shall become obligated to pay by reason of liability imposed upon the insured by law for injury or damage to persons, other than employees of the insured, including the liability imposed upon the insured by reason of M.S.A. § 340A.801, as it may be amended from time to time.

(2) This subsection does not apply to licensees who by affidavit establish that they are on-sale 3.2 percent malt liquor licenses with sales of less than $25,000.00 for the preceding year, or off-sale 3.2 percent malt liquor licenses with sales of less than $50,000.00 of 3.2 percent malt liquor, or holders of on-sale wine licenses with sales of less than $25,000.00 of wine for the preceding year.

(3) The operation of any establishment for which an on-sale or off-sale license has been issued pursuant to this chapter without having such evidence on file and such insurance in effect shall be sufficient cause for the immediate revocation of such license, provided that, in the event such insurance policy shall expire or be canceled, and the licensee is unable to obtain the insurance coverage required by this subsection, the licensee may continue to operate the establishment so licensed for a period of not to exceed 90 days from the date on which such policy shall have expired or been canceled upon the deposit by the licensee with the city of a bond or cash security in the amount equal to the maximum bond or cash security amount recited in M.S.A. § 340A.409, as it may be amended from time to time, which bond or cash security shall, in all respects, comply with the requirements pertaining to such bond or cash security set forth in M.S.A. § 340A.409, as it may be amended from time to time.

(d) *License fees.* Each application for a license or renewal required by this chapter shall be accompanied by payment in full of the license fee. License fees shall be established by resolution of the city council.

(e) *Term of license.* Each license issued pursuant to the provisions of this chapter, excluding temporary licenses, shall expire on April 30 immediately following such issuance and annually on April 30 thereafter.

(f) *Liquor license operating agreement.*

(1) A fully executed liquor license operating agreement must be submitted as part of the application for any on-sale liquor license issued pursuant to this chapter. The liquor license operating agreement will include general conditions under which the licensee shall operate the licensed premises and be established by resolution of the city council.

(2) When a conditional use permit or other permit is required under this Code, the liquor license operating agreement must be preliminarily approved by the city manager or designee, prior to the submittal of an application for the required permits.

(Code 2015, § 4.09; Ord. No. 16-1212-17, § 4.09, 12-12-2016)

Sec. 3-158. Issuance of license.

(a) *Generally.* In the event an application for a license required by this chapter is granted by the city council, the city clerk shall, upon payment of the license fees, issue such license. The city council may impose reasonable restrictions or conditions upon the license holder at any time the license is issued, renewed, transferred, or reinstated following a suspension of that license to address the operation of the licensed premises as outlined in section 3-164.

(b) *Renewal.*

(1) Applications for the renewal of licenses granted under this chapter shall be mailed to the license holder no later than February 1 and must be filed with the city designee no later than March 1 of each year preceding the expiration of the current license. Failure to submit a completed license application to the city by March 1 will result in a late fee penalty which shall be established by resolution of the city council. Failure to submit a completed license application may result in the interruption of liquor service. An application submitted by mail will be deemed to be submitted on the day it is postmarked by the U.S. post office. If March 1 falls on a Saturday, Sunday or legal holiday, the application will be due the next business day.

(2) A fully executed liquor license operating agreement must be submitted as part of the application for renewal of an on-sale liquor license issued pursuant to this chapter, establishing general conditions in which the licensee shall operate as per section 3-157(f). Failure by the licensee or their employees or agents to comply with the terms and conditions of the liquor license operating agreement may be used as a basis by the city council to review the license and take sanctions against the liquor license.

(c) *Transfers.* Each license will be issued to the applicant only. Further restrictions include:

(1) No license issued pursuant to this chapter shall be transferable by the licensee to another person, firm, or corporation.

(2) No such license shall be transferable to a different location except with the prior consent of the city council and upon payment of the fee as provided by resolution of the city council.

(3) No transfer of a license type shall be permitted without complying with the requirements of an original application for such classification.

(4) Changes in corporate directors and officers must be reported within 30 days to the city clerk. Any transfer of stock of a corporate license which constitutes a transfer of more than ten percent of that corporation's outstanding stock is deemed a transfer of the license. No such transfer may be made without prior city council approval.

(d) *Surrender of license.* Any licensee under this chapter who stops selling intoxicating or 3.2 percent malt liquor, or transfers the license to another premises, must immediately surrender the license issued to the premises that will no longer be used for the sale of intoxicating or 3.2 percent malt liquor.

(Code 2015, § 4.10; Ord. No. 16-1212-17, § 4.10, 12-12-2016; Ord. No. O-2024-0122-1, § 4.10, 1-22-2024)

Sec. 3-159. Restrictions on issuance.

(a) *Persons not eligible.* No license shall be issued under this chapter to:

(1) A person under 21 years of age;

(2) A person who has had an intoxicating liquor or 3.2 percent malt liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;

(3) A person not of good moral character and repute;

(4) A person who has had a state license or registration issued pursuant to M.S.A. ch. 342 or M.S.A. § 151.72, subd. 5b, revoked;

(5) A person who has been convicted of an offense under M.S.A. § 151.72, subd. 7;

(6) A person who has been convicted under this Code or any state statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells intoxicating liquor or 3.2 percent malt liquor to customers;

(7) A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler; or

(8) A person who, within five years of the license application, has been convicted of a felony or a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage. A person with a disqualifying conviction may appeal the denial of the license by filing a written request to the city clerk within five days of being informed of the decision to deny. The city council will then review the decision. Only the city council may issue a liquor license despite a disqualifying conviction. The city council may impose reasonable conditions on the license.

(b) *Interest in other business.* A winery holding a license under M.S.A. § 340A.301, subd. 6(b) that produces and sells, including sales from the winery's premises, no more than 2,500 barrels or its metric equivalent of cider made from apples in a calendar year may own or have an interest in a wholesaler that sells only the winery's apple-based cider products. The winery eligible to own or have an interest in a wholesaler under this subsection must provide the commissioner with an affidavit stating that no existing wholesaler is available to represent and distribute the winery's apple-based cider to retail license holders and detailing the actions taken by the winery in pursuing a distribution contract for the cider product.

(c) *Payment of taxes, etc.* No license shall be granted, or renewed, for operation on any premises on which taxes, assessments or other financial claims of the city or of the state are delinquent or unpaid. In the event an action has been commenced pursuant to the provisions of M.S.A. ch. 278, as it may be amended from time to time, questioning the amount of validity of taxes, the city council,

upon request of the licensee, may waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

(d) *Restriction on property.* No license shall be issued for any place or any business ineligible for a license under state law.
(Code 2015, § 4.11; Ord. No. 16-1212-17, § 4.11, 12-12-2016)

Sec. 3-160. Conditions of license.

Every license will be granted subject to the conditions in the following subdivisions and all other provisions of this chapter and any other applicable ordinance of the city or state law:

(1) *License posted.* A retail license to sell alcoholic beverages must be posted in a conspicuous place on the licensed premises, as required by M.S.A. § 340A.410, subd. 4, as may be amended from time to time.

(2) *Licensee responsible for conduct.* Every licensee will be 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 or serve intoxicating liquor will be deemed the act of the licensee as well, and the licensee will be liable to all penalties provided by this chapter or state law equally with the employee.

(3) *Employing minors.* Persons under 18 years of age may not serve or sell intoxicating liquor in a licensed intoxicating liquor establishment.

(4) *Slot machines and gambling devices.* It is unlawful for an intoxicating or 3.2 percent malt liquor license, or their employee or agent, to keep, possess or operate, or permit to keeping, possessing or operation of, on the licensed premises or in any room adjoining the licensed premises, any slot machine or other gambling device or apparatus, as defined by M.S.A. § 609.75, as it may be amended from time to time. However, gambling devices may be kept or operated and raffles conducted on the premises and adjoining rooms when such activities are licensed or allowed by the state.

(5) *City officials right to enter.* All premises licensed under this chapter shall at all times be open to inspection by any health officer, public safety officer or properly designated officer or employee of the city to determine whether or not this chapter and all other laws are being observed. All persons, as a condition of being issued such license, consent to such inspection by such officers and without a warrant for searches or seizures. It is unlawful for any such licensee, their employee or agent to hinder or prevent any such officer from making such inspection.

(6) *Prostitutes.* It is unlawful for any intoxicating or 3.2 percent malt liquor licensee to permit the licensee, or their employee or agent, to permit the licensed premises or any room in the same or adjoining building, directly or indirectly under its control, to be used as a resort for prostitutes or other disorderly persons as defined under M.S.A. §§ 609.321 and 609.72.

(7) *Local contact or manager required to be on premises of intoxicating licenses.* For all intoxicating liquor licenses, a designated local contact or manager will be present on the

licensed premises at all times. At the time of the application for a license, the applicant will designate a maximum of three individuals as local contacts of the licensed premises. No other persons may be designated as the local contact without prior approval of the city clerk.

(8) *Promoting responsible consumption.*

a. No person shall sell, give, barter, furnish or dispose of in any manner, directly or indirectly, any alcoholic beverages, in any quantity, for any purpose whatsoever, to any obviously intoxicated person. Obviously intoxicated persons shall not be allowed to enter a licensed premises. For the purposes of this section, the term "obviously intoxicated" means a person who is presently impaired, mentally or emotionally, as a result of the presence of alcohol in the person's body and such impairment is obvious to a reasonable person. Evidence of an intoxicated person includes, but is not limited to, the odor of intoxicants on breath, bloodshot eyes, dilated pupils, stumbling, staggering, slurred speech, individual is a danger to self or others, is creating a public nuisance or is causing a disturbance while intoxicated.

b. Every intoxicating or 3.2 percent malt liquor licensee shall limit the level of alcohol consumption by employees during working hours to a limit of 0.04 blood alcohol content. Testing would occur if the employee displays indicia of intoxication.

c. Every intoxicating or 3.2 percent malt liquor on-sale licensee or their employee or agents shall not sell, offer to sell or deliver to any person more than two drinks containing intoxicating liquor or 3.2 percent malt liquor for a single price, or increase the volume of intoxicating liquor or 3.2 percent malt liquor contained in the drink without proportionately increasing the price charged for such drink. Special pricing on drinks may only be offered between the hours of 8:00 a.m. and 11:00 p.m. Temporary promotional pricing will be allowed after 11:00 p.m. as long as it is available during all the hours of operation. Beer or liquor samplings will be allowed as permitted by state statutes.

d. License holders, their agents and employees shall engage in responsible serving practices. Allowing the sale of a single serving of an alcoholic beverage which, when consumed, will reasonably result in an alcohol concentration of 0.08 or more is not allowed. Sales of pitchers of alcoholic beverages are allowed, provided there are at least two persons intending to consume the pitcher of alcoholic beverages.

e. License holders shall not encourage or permit games or contests which involve drinking, award prizes based on alcohol consumption or award prizes of alcohol. Alcoholic beverages shall not be included as part of a charge for admission.

(9) *Underage presence in licensed premises.*

a. *Social host responsibility.* It shall be unlawful for any licensee to permit any person under the age of 21 years to loiter or remain in any room where intoxicating liquor is being sold or served, unless that person is accompanied by his or her parent or legal guardian, which parent or legal guardian is 21 years of age or older. Underage persons may lawfully be present in a licensed restaurant or restaurant movie theater, where

alcohol is being sold or served if present for the purpose of consuming food, attending a movie, or in accordance with one of the provisions listed in subsection (9)d of this section. Breach of any duty imposed under subsection (10) of this section shall be in violation of this article and it subject to civil or criminal consequences including the imposition of fees and licensing action.

b. *Identification.* It shall be unlawful for a person, except a person under the age of 18 years, who is accompanied by his or her parent or legal guardian, (which parent or legal guardian is 21 years of age or older), to enter or attempt to enter premises licensed for the on-sale or off-sale of intoxicating or 3.2 percent malt liquor, without having on their person a valid, unaltered driver's license or picture identification card issued by a state or the United States government identifying such person and their date of birth or, in the case of a foreign national, a valid passport.

c. *Misrepresenting age.* It shall be unlawful for a person under the age of 21 years to represent themselves as being 21 years of age or older for the purposes of gaining admission to premises licensed for the sale of intoxicating or 3.2 percent malt liquor.

d. *Admission to a licensed premises.* It shall be the duty of any on-sale or off-sale licensee, and all employees and agents thereof, to prohibit persons under the age of 21 years to enter their establishment for the sale, purchase, consumption, or delivery of any alcoholic beverage. The following provisions apply to minors and entry into licensed premises:

1. Persons under the age of 18 years may enter a Class R, restaurant, Class RT, restaurant theater, or Class O, other licensed establishment if:
   (i) They are accompanied by a parent or legal guardian who is 21 years of age or older; or
   (ii) They are consuming a meal, provided they do not remain unreasonably after the meal is completed; or
   (iii) They are attending the celebration of a wedding, the anniversary of a wedding, retirement party or other social function held in a licensed premises but may only be present for the purpose of celebrating the occasion and not for the purpose of purchasing, being served or otherwise consuming any alcoholic beverage; or
   (iv) They are attending a movie; or
   (v) They are performing work as a musician, bus person, or dishwasher.
2. Persons 18, 19, or 20 years of age shall be permitted to enter any licensed establishment if:
   (i) They are accompanied by a parent or legal guardian who is 21 years of age or older;
   (ii) They are consuming a meal, provided they do not remain unreasonably after the meal is completed;

(iii) They are attending the celebration of a wedding, the anniversary of a wedding, retirement party or other social function held in a licensed premises but may only be present for the purpose of celebrating the occasion and not for the purpose of purchasing, being served or otherwise consuming any alcoholic beverage;

(iv) They are attending a movie; or

(v) They are performing work for the establishment, including the serving of alcoholic beverages, unless prohibited by M.S.A. § 340A.412, subd. 10.

e. *Right to limit age of entry.* Nothing herein shall be deemed to limit the ability of a license holder to restrict admittance to a licensed premises to only those persons who are of legal drinking age.

(10) *Training.*

a. Every intoxicating or 3.2 percent malt liquor on-sale and off-sale licensee shall require that their employees and agents successfully complete an annual program of server training. All new employees shall complete the training within 30 days of hire. Such program of server training must be approved by the department of public safety. Trained employees will be required to complete updated training, provided or approved by the department of public safety, annually thereafter.

b. The license holder must maintain a list on the licensed premises of those persons who have been trained as required by this subsection together with the date that training was completed. The list must be certified by the license holder and in the case of a corporation or club, an officer of that entity. The list will immediately be made available upon request of a law city inspector or other city official.

(11) *Restaurant movie theater licensee special requirements and restrictions.* The following are in addition to all other requirements and conditions set forth in this chapter. Every movie theater shall:

a. Be under the control and ownership of a single person. No part of the restaurant or movie theater, including, but not limited to, the property, equipment and operations, shall be owned or controlled by separate persons.

b. Consist of one contiguous and compact space with site plan or floor plan reviewed and approved by the city.

c. Have either separate tables and chairs, each permanently attached to the floor, or seats with tables attached permanently attached to the floor. If seats have tables attached, then every seat must have a table.

d. Appoint a manager, which manager shall operate both the restaurant and the movie theater.

e. Refrain from offering or selling wine or distilled spirits by the bottle.

f. Limit serving sizes of alcoholic beverages to no more than: eight fluid ounces of wine, three fluid ounces of distilled spirits, and 24 fluid ounces of malt liquor per serving.

g. Refrain from offering any discounts or happy hours.

h. Only offer or sell alcoholic beverages in their original packaging, or by using a measuring device.

i. Limit the offer or sale of alcoholic beverages to two per any single transaction.

j. Refrain from offering or selling any alcoholic beverages containing more than 50 percent alcohol by volume.

k. Only sell alcoholic beverages to persons providing adequate proof of age as established by M.S.A. § 340A.503.

(Code 2015, § 4.12; Ord. No. 16-1212-17, § 4.12, 12-12-2016)

Sec. 3-161. Adult uses.

(a) *Prohibition.* It is unlawful for the holder of an on-sale liquor, 3.2 percent malt liquor, wine or bottle club license issued under this chapter or for any manager, officer, agent, servant, or employee of such licensee to exhibit, allow or permit on the licensed premises any adult use as defined in section 10-1537, as it may be amended from time to time.

(b) *Exceptions.* This section does not apply to any license holder which, prior to August 26, 1996, lawfully allowed adult uses on the licensed premises.

(Code 2015, § 4.07; Ord. No. 18-1113-12, § 4.07, 11-13-2018)

Sec. 3-162. Times when sales are prohibited.

No intoxicating liquor or 3.2 percent malt liquor will be sold during hours as prohibited in the following:

(1) *On-sales.* On-sales may not be made between 1:00 a.m. and 8:00 a.m. of any day; and between 1:00 a.m. and 8:00 a.m. on Monday, unless the licensee has obtained a Sunday license pursuant to this article, in which case sales may be made on Sundays between the hours of 8:00 a.m. and 1:00 a.m. in conjunction with serving of food. Sales would only be allowed until 2:00 a.m. in the cases where the licensee has obtained a 2:00 a.m. license.

(2) *Off-sales.* Off-sales may not be made after 10:00 p.m. and before 8:00 a.m. on any day except as provided herein; on Sunday, off-sales may not be made after 6:00 p.m. or before 11:00 a.m.; off-sales are prohibited on Thanksgiving Day and Christmas Day; however, on the evening preceding these holidays, off-sales may be made until 10:00 p.m. except the day before Christmas, December 24, on which no sales will be made after 8:00 p.m.

(3) *3.2 percent malt liquor.* No sale of 3.2 percent malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and 10:00 a.m. on Sunday.

(4) *Prohibited.* Licensees' employees, and agents of any licensee, will not serve, dispense or in any manner furnish intoxicating liquor on the licensed premises on Sunday between 2:00 a.m. and 8:00 a.m., nor between the hours of 2:00 a.m. and 8:00 a.m. on any weekday, Monday through Saturday inclusive.

(Code 2015, § 4.13; Ord. No. 16-1212-17, § 4.13, 12-12-2016)

Sec. 3-163. Closing of establishment.

(a) *Closing of Class B, bar.* All persons, except the licensee, employees and law city inspectors, will be excluded from the bar within 30 minutes after the expiration of the time of any day when intoxicating liquor may be legally sold in an establishment holding a Class B license, and all doors into the bar will then be closed and locked.

(b) *Open containers after closing.* No open container with an alcoholic beverage shall be allowed in an on-sale establishment between 15 minutes after the hour of termination of sale and until the hour when sale of intoxicating or 3.2 percent malt liquor may commence under state law. For the purposes of this subsection, the term "open container" means a bottle, can or glass designed or used for individual consumption of beverages or a pitcher or other multi-serving container delivered for use by the retail consumer but shall not include a container kept in a bar area accessed only by employees of the establishment.

(c) *Persons consuming after closing.* No person shall consume any intoxicating liquor on any premises licensed for the on-sale of intoxicating liquor after the required hour of termination of sale as provided herein.

(d) *Litter and refuse control.* Within 12 hours of closing, licensees shall inspect their premises from lot line to lot line, all adjacent streets, sidewalks and alleys adjoining their premises and sidewalks and alleys within 50 feet of such premises lot lines and shall remove any litter and debris found thereon.

(e) *After closing food service.* No person shall remain inside the premises of a licensed establishment after the required hour of termination of sale of alcohol except employees or those present for the purpose of ordering and consuming food. Food service inside the licensed premises after 2:00 a.m. is prohibited unless the percentage of alcohol sales is less than 30 percent of annual gross sales. Licensed establishments not meeting this requirement can serve food in a room separate from the alcohol or close off access to the alcohol. Regardless, these licensed establishments must close off access to alcoholic beverages by the required hour of termination of the sale alcohol. Service of food may not be made outside, including the patio, of the licensed establishment. (Code 2015, § 4.14; Ord. No. 16-1212-17, § 4.14, 12-12-2016)

Sec. 3-164. Sanctions; suspension or revocation.

(a) *Violation and penalty.* Violations of these provisions may result in a penalty being issued in the form of a strike, as defined in section 3-2.

(b) *Penalty/strike matrix.* Strikes issued for failing to comply with any applicable statute, regulation, or provisions of this chapter relating to liquor shall be outlined in a penalty/strike matrix, adopted by resolution of the council. The city reserves the right to deviate from the matrix at any time based on the seriousness of the offense. Civil penalties may be imposed as adopted by resolution of the council. Conviction of a violation in a court of law is not required in order for the imposition of a civil penalty.

(c) *Subsequent violations.* Three or more violations or strikes issued at one time or within a 12-month time period will be heard by the city council and be subject to licensing actions including suspension, revocation or other sanction as deemed appropriate by city council.

(d) *Appeals.* Strikes may be appealed as provided in chapter 2, article III, division 2.
(Code 2015, § 4.15; Ord. No. 16-1212-17, § 4.15, 12-12-2016)

Chapter 4

ANIMALS

Article I. In General

Sec. 4-1. Definitions.
Sec. 4-2. Contract for enforcement services.
Sec. 4-3. Humane treatment; housing standards.
Sec. 4-4. Running at large prohibited; exceptions.
Sec. 4-5. Feeding of deer prohibited.
Sec. 4-6. Restraining animals on roadway portion of boulevards and sidewalks.
Sec. 4-7. Zoning restrictions; accessory use license.
Sec. 4-8. Hobby kennel license.
Sec. 4-9. Interference with animal confinement or designated enforcement officials.
Secs. 4-10—4-36. Reserved.

Article II. Dogs and Cats

Division 1. Generally

Sec. 4-37. Registration required.
Sec. 4-38. Limitation on number of dogs per household.
Sec. 4-39. Excessive noise.
Sec. 4-40. Running at large.
Sec. 4-41. Impounding.
Sec. 4-42. Waste.
Sec. 4-43. Rabies prevention and control.
Secs. 4-44—4-74. Reserved.

Division 2. Potentially Dangerous and Dangerous Dogs

Sec. 4-75. Potentially dangerous dogs.
Sec. 4-76. Dangerous dogs.
Sec. 4-77. Leash and muzzle.
Sec. 4-78. Exemption.
Sec. 4-79. Law enforcement; exemption.
Sec. 4-80. Appeal of designation.
Sec. 4-81. Requirements of owner pending appeal.
Sec. 4-82. Confiscation.
Sec. 4-83. Destruction of dog in certain circumstances.
Sec. 4-84. Fees.
Sec. 4-85. Notice of removal.
Sec. 4-86. Notice to property owner.
Sec. 4-87. Penalties.
Sec. 4-88. Dog ownership prohibited by state law.

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

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

Animal means any cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, and all other animals and feathered fowl, except dogs and cats, unless such pets are specifically included in particular subdivisions hereof, and then this definition shall extend to such section only.

Animal control officer means the person or entity designated by the city from time to time to carry out the duties imposed under this chapter and exercise the authority granted by this chapter on behalf of the city.

Attack means the deliberate action of a dog, whether or not in response to a command by a person, to bite, to seize with its teeth or to pursue any human, animal or inanimate object, with the intent to destroy, kill, wound, injure or otherwise harm the object of its action.

Owner means any person keeping harboring, or having charge or control of, or permitting any animal habitually to be or remain on, or be lodged or fed within, such person's house, yard or premises excluding veterinarians or commercial kennel operators temporarily maintaining on their premises, for a period of 60 days or less, animals owned by others.

Proper enclosure means securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and shall provide protection from the elements for the animal. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the animal from exiting.

Provocation means an act that an adult could reasonably expect may cause a dog to attack or bite.

Running at large means off the premises of the owner or keeper and not under the control of a person by leash, cord or chain of not more than ten feet in length.
(Code 2015, §§ 9.31(1), (5)(A), (11)(A), 9.61(1); Ord. of 8-13-2007; Ord. of 9-8-2014; Ord. No. 15-0824-11, § 9.61(1), 8-24-2015)

Sec. 4-2. Contract for enforcement services.

(a) *Authorized.*

(1) The city may contract with one or more licensed veterinarians or licensed kennels to perform the duties set forth in this section.

(2) Duties and authority. Such contracts shall provide that the veterinarian or kennel shall provide adequate, sanitary facilities for the impoundment of dogs and cats that have been

impounded by the city. The contract shall specify the duties of the veterinarian and shall require the veterinarian to perform all the duties listed with the exception that the veterinarian shall not be required to impound dogs and cats found running at large or without a license. The veterinarian, however, shall be required to collect all fees, post the appropriate notices, and send the appropriate notices required by this chapter. Any veterinarian acting pursuant to a contract authorized hereunder shall have the authority to issue licenses and license tags for dogs and cats and shall collect the fees for such licenses and all redemption and pound boarding fees required by this chapter.

(b) *Compensation.* The agreement shall provide for the rate of compensation to be paid to the veterinarian for the impoundment of animals and the collection of license and redemption fees. Any such agreement shall be nonexclusive and shall be approved by the council. The fees set forth therein shall constitute the boarding fee rate applicable in subsection (c) of this section.

(c) *License contracts only.* Contracts may also be entered into with licensed veterinarians or licensed kennels solely for the purpose of authorizing them to collect fees for, and to issue for the purpose of authorizing them to collect fees for, and to issue dog licenses and tags on behalf of the city. Such agreements shall comply with the provisions of subsection (d) of this section.

(d) *Accounting.* Any fees collected by licensed veterinarians or licensed kennels on behalf of the city shall be accounted for and remitted to the city finance director, less such collection fees and storage charges are as allowed pursuant to the contract.

(e) *Charges.* Any contract entered into hereunder shall specify the daily charge for impounding animals and shall provide that the city shall not be responsible for charges incurred beyond a holding period that includes five business days of impoundment. No animal shall be released to its owner unless all impoundment, boarding and license fees have been paid.

(f) *Adoption.* After the redemption period by the owner has expired, any animal held by a veterinarian pursuant to the contract may be released to an adoptive owner not related by blood or marriage to the original owner of the animal who does not live in the same building as the original owner. No such release shall be accomplished until the animal has been licensed and vaccinated. Further, the veterinarian may not charge the new adoptive owner for the release of the animal any release fee beyond the charges of licensing and vaccinating other than a charge based upon the daily charge for holding the animal based upon the number of days, not to exceed ten, that the animal has been held by the veterinarian in addition to the days for which the veterinarian has received reimbursement from the city or a flat adoption fee as approved by the city in its contract with the veterinarian.

(g) *Hours.* The veterinarian's office or licensed kennel shall be open for not less than four consecutive hours each business day and shall be open for at least five business days per week except in the event of a legal holiday.

(h) *Records.* The veterinarian shall maintain records that will allow for verification of compliance with the requirements of law as well as the charges imposed upon the city pursuant to the contract and the receipt of fees thereunder from owners of animals.

(i) *Change in state law.* Any contract will be subject to modification in the event of a change in applicable laws of the state imposing greater duties upon the animal control officer that those in effect at the time the contract was entered into.
(Code 2015, § 9.31(12); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-3. Humane treatment; housing standards.

It is unlawful for any person to treat any animal in a cruel or inhumane manner. It is unlawful for any person to keep any animals in any structure infested by rodents, vermin, flies or insects.
(Code 2015, § 9.61(3), (4); Ord. No. 15-0824-11, § 9.61(3), (4), 8-24-2015)

Sec. 4-4. Running at large prohibited; exceptions.

It is unlawful for any person to permit animals to run at large in the streets or public places, or to be herded or driven thereon, unless each animal is confined within a vehicle or restrained by means of bridles, halters, ropes or other means of individual restraint.
(Code 2015, § 9.61(5); Ord. No. 15-0824-11, § 9.61(5), 8-24-2015)

Sec. 4-5. Feeding of deer prohibited.

(a) *Prohibition.* No person shall feed or allow the feeding of any deer within any area of the city. For the purposes of this section, the term "feeding" means provision of one-half cubic foot or more of grain, fruit, vegetables, nuts, hay or other edible material, either on the ground or at a height of less than five feet above the ground, in a manner that attracts deer on a regular basis. Living food sources, such as fruit trees and other vegetation, shall not be considered as deer feeding.

(b) *Exceptions.* This prohibition shall not apply to veterinarians, city animal control officers and park maintenance staff or county, state or federal game officials who, in the course of their duties, have deer in their custody or under their management.

(c) *Penalty.* Violation of this section shall be a misdemeanor.
(Code 2015, § 9.76; Ord. of 7-8-2002)

Sec. 4-6. Restraining animals on roadway portion of boulevards and sidewalks.

It is unlawful for any person, not authorized by the city, having control or charge of any animal, except a dog or cat, to permit such animal to enter upon or cross any boulevard or sidewalk within the city or any other city park or property except for the roadway portion of any public street.
(Code 2015, § 9.31(10); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-7. Zoning restrictions; accessory use license.

(a) *Keeping restricted; license required.* It is unlawful for any person to keep any animal, not in transit, in any part of the city, unless the area where the animal is kept is zoned for agricultural purposes or a license has been issued for an accessory use in an approved zoo, museum, or educational facility as permitted under chapter 10.

(b) *Application.* Application for license under this section must be made to the city's animal control officer and shall comply with the following:

(1) The application must demonstrate the purpose for keeping of animals as accessory to an approved principal use of property as a zoo, museum, or educational facility as defined in chapter 10.

(2) Applicants must provide information for each type of animal; information must include species, type of housing provided, fencing and required enclosures, manure management plan, groundwater and surface water protection, sound and odor control, as well as other pertinent information required by the city's animal control officer.

(3) The application shall be accompanied by a site plan that conforms to section 10-1812.

(4) An application fee, as set by city council resolution and provided in the city fee schedule, shall be submitted with the application.

(c) *Property inspection.* The property subject to an application will be subject to inspection of the premises where the animals are to be located.

(d) *Factors considered.* Considerations in granting a license shall include, but not be limited to, the ability to provide adequate fencing, housing of the animals, sufficient and appropriate space for the animals indoors and out, a plan for waste disposal, surface water and groundwater quality protection, and impact on abutting properties.

(e) *Neighborhood meeting required.* As part of the application review process, a neighborhood meeting shall be held by the animal control office whereby the abutting property owners may review and provide testimony regarding the application. If an abutting property owner can demonstrate that such use may negatively impact their property, then the license application shall be denied by the animal control officer.

(f) *Appeal of license denial.* Applicants whose license application has been denied may file a written request for an appeal to the city clerk within five days of being informed of the decision to deny the issuance of a license. The city council will then review the decision to determine whether or not the action was correct. The city council may, in connection with its review of the action, either affirm, reverse, or modify the actions. The applicant shall be advised by mail of the date and time that the council will hear the applicant's appeal.

(g) *License conditions.* Licenses shall specify any restrictions, limitations, conditions or prohibitions which the city's animal control officer deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, annoyance, or to protect the public health or safety. In no case shall the total number of animal units exceed ten as defined by county feedlot ordinances.

(h) *Modifications.* A license may be modified from time to time by the city manager or designee. Modification of the license shall be effective from and after ten days from the date of the written notice of modification to the license holder.

(i) *Revocation.* A license may be revoked or suspended for violations of this Code, or by reason of the violation of any health or nuisance ordinance, or other order, law or regulation. Revocation of the license shall be effective ten days after the date of the written notice of revocation. Revocation of a license may be appealed pursuant to the appeal process set forth in chapter 2.
(Code 2015, § 9.61(2); Ord. No. 15-0824-11, § 9.61(2), 8-24-2015)

Sec. 4-8. Hobby kennel license.

(a) *Application.* Prior to exceeding the animal limits set forth in section 4-38, owners must make application to the city's animal control officer for a hobby kennel license that allows them to exceed the limits listed in this chapter by no more than four animals. Except as specified below, all animals in a hobby kennel must be registered with the city pursuant to subsection (a)(2) of this section.

(1) Applicants must provide information for each animal in excess of the limit, information must include name, color, species, age and housing provided for each animal, as well as other pertinent information required by the city's animal control officer.

(2) Hobby kennel applications will be subject to inspection of the premises where the animals are to be located. Considerations in granting a hobby kennel license shall include, but not be limited to, the ability to provide adequate fencing, indoor housing of the animals at night, sufficient and appropriate space for the animals indoors and out, a plan for waste disposal and review of past animal-related complaints or violations for the owner of the animal.

(3) Applicants whose hobby kennel license application has been denied may file a written request for an appeal to the city clerk within five days of being informed of the decision to deny the issuance of a license. The city council will then review the decision to determine whether or not the action was correct. The city council may, in connection with its review of the action, either affirm, reverse, or modify the actions. The applicant shall be advised by mail of the date and time that the council will hear the applicant's appeal.

(4) An application fee, as set by city council resolution and provided in the city fee schedule, shall be submitted with the application.

(b) *License conditions.* Hobby kennel licenses shall specify any restrictions, limitations, conditions or prohibitions which the city's animal control officer deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health or safety.

(c) *Modifications.* A hobby kennel license may be modified from time to time by the city manager or designee. Modification of a hobby kennel license shall be effective from and after ten days from the date of the written notice of modification to the license holder.

(d) *Revocation.* A hobby kennel license may be revoked or suspended for violations of this Code, or by reason of the violation of any health or nuisance ordinance, or other order, law or regulation. Revocation of the hobby kennel license shall be effective ten days after the date of the written notice of revocation. Revocation of a hobby kennel license may be appealed pursuant to the appeal process set forth in chapter 2.

(e) *Existing conditions.* Owners who, at the effective date of the ordinance from which this section is derived, possess animals in a number greater than that allowed by this section may continue with that ownership without obtaining a hobby kennel license, provided that each of the animals is registered with the city pursuant to this section. Compliance with the limitations shall be attained through attrition. Animals in excess of the four allowed by this section that die or their ownership is transferred to a person outside the household may not be replaced.

(f) *Fostering.* Owners who provide foster care for animals through a licensed shelter may be granted hobby kennel licenses without providing information regarding the identification of each animal fostered.

(g) *Commercial kennels.* Commercial kennels are not included in the provisions of this section and are governed by chapter 10.
(Code 2015, § 9.31(4); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-9. Interference with animal confinement or designated enforcement officials.

It is unlawful for any unauthorized person to remove or release any dog or cat impounded by or on behalf of the city without the authority of the city, or to remove or release from or attempt to remove or release from any agent of the city any dog or cat impounded by such agent in compliance with the provisions of this section, or to in any manner interfere with or obstruct such agent in the discharge of the duties of such officer.
(Code 2015, § 9.31(8); Ord. of 8-13-2007; Ord. of 9-8-2014)

Secs. 4-10—4-36. Reserved.

ARTICLE II. DOGS AND CATS

DIVISION 1. GENERALLY

Sec. 4-37. Registration required.

It is unlawful for any person owning, harboring or keeping any dog to keep any such dog or cat, which dog or cat is more than six months of age, within the city without first registering the dog or cat with the city. Registration of a dog or cat must be completed within 60 days from the date the dog or cat is brought into the city or reaches the age of six months. The name, address, telephone number, rabies tag number, microchip information and any other descriptive information relating to the dog or cat as may be required by the city, must be included in the registration information.
(Code 2015, § 9.31(2); Ord. of 10-12-1992; Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-38. Limitation on number of dogs per household.

(a) No person shall keep, or allow to be kept, at any location within the city, more than a total of four dogs; provided, however, such limitation does not apply to the following:

(1) A city-owned and -operated animal impound facility or licensed kennel;

(2) An animal hospital operated by a licensed veterinarian or licensed kennels;

(3) An animal shelter licensed by the state board of animal health;

(4) A litter of puppies under the age of six months.

(b) Residents desiring to keep more than a total of four dogs may apply for a hobby kennel license.
(Code 2015, § 9.31(3); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-39. Excessive noise.

(a) *Prohibited.* It shall constitute a nuisance and be unlawful if any dog or cat barks, whines, howls, bays, cries, or makes other noise excessively so as to cause annoyance, disturbance or discomfort to any individual, provided that such noise lasts for a period of more than five minutes continuously or intermittent noise that continues for more than one hour and is plainly audible outside the property limits of where the dog or cat is kept.

(b) *Abatement; seizure.* Any public safety officer or animal control officer may enter onto private property and seize any dog or cat, provided that the following conditions exist:

(1) There is an identified complaint other than the public safety or animal control officer making a contemporaneous complaint about the noise;

(2) The officer reasonably believes that the noise meets the criteria set forth in this section;

(3) The officer can demonstrate that there has been at least on previous complaint of noise made by an animal at this address on a prior date;

(4) The officer has made reasonable attempts to contact the owner of the animals or the owner of the property and those attempts have either failed or have been ignored;

(5) The seizure will not involve forced entry into the private residence. Use of a passkey obtained from a property manager, landlord, innkeeper or other person authorized to have such a key shall not be considered forced entry;

(6) No other less intrusive means to stop the noise is available; and

(7) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animals is not possible.

(c) *Disposition of seized animals.* Any animal seized under the provisions of this section shall be taken to the animal control facility or a licensed kennel and kept there to be reclaimed by the owner.

(1) Prior to the release of any dog or cat seized under the above provisions, it shall be registered with the city as required by section 4-37.

(2) No impound fee shall be charged unless the circumstance indicates that the owner failed to cooperate with or obstructed the officer's attempts to abate the noise through other less intrusive means.

(3) The owner shall pay all other fees as set by council resolution.

(4) Any animal seized under this section which is unclaimed may be disposed of according to the provisions of section 4-41(b).

(Code 2015, § 9.31(7)(A)—(C); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-40. Running at large.

(a) It is unlawful for any person owning, harboring or keeping any dog or cat to allow or permit, whether knowingly or unknowingly, such dog or cat to run at large within the city, provided that the provisions of this prohibition shall not apply to any dog or cat confined within a building, structure or enclosed vehicle if such confinement is otherwise lawful and with the consent of the owner of the building, structure or vehicle; or to any dog or cat owned or kept by an employee or agent of the city while such dog or cat is being employed in the enforcement of this chapter.

(b) It is unlawful for any person owning, harboring, or keeping any dog or cat to allow or permit, whether knowingly or unknowingly, such dog or cat to leave the premises of the owner or keeper, without a rabies identification tag attached to the animal or the animal having a microchip implanted.

(Code 2015, § 9.31(5)(B), (C); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-41. Impounding.

(a) *Authority; notice.* City staff shall impound any unregistered dog or cat found within the city, or any dog or cat found running at large. Within 48 hours after impounding any registered dog or cat, city staff shall mail a written notice to the owner or keeper of such dog or cat at the address given by such owner or keeper at the time the dog or cat was last registered with the city. Such notice shall set forth a description and the registration number of the dog or cat, and the date and approximate place the dog or cat was apprehended. No such notice shall be required with respect to any apprehended dog or cat not having attached thereto current registration information.

(b) *Disposition.* In the event an impounded dog, cat or animal is not claimed by the owner or keeper of such dog within five days after the impoundment or, in the event notice of such impoundment is given to the owner, within five days after such notice is mailed, city staff shall, in a humane manner as prescribed by the city council, dispose of such dog, cat or animal.

(c) *Redemption; fees.* Any impounded dog or cat shall be housed and fed in a humane manner, either in the city pound or in any other animal shelter approved by the city. Any such dog or cat may be redeemed from the city pound by the owner of such dog upon payment of the fees provided herein, provided that such redemption shall be made within the five-day holding period as set forth in subsection (b) of this section. Before any impounded dog or cat shall be released from the pound to the owner thereof, the owner shall pay to the city the daily pound boarding fee, as determined by the city council by resolution, for each day during which such dog or cat shall have been kept within the pound or other approved shelter, together with an impoundment fee, as determined by city council resolution. Before any impounded dog or cat that is not currently registered with the city will be released to the owner, it will be registered by city staff and the owner will pay an administrative penalty in the amount established by the city council by resolution.

(Code 2015, § 9.31(6); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-42. Waste.

It is unlawful for any person owning, keeping, harboring or controlling any dog or cat to permit or allow such dog or cat to discharge or deposit on any property in which such person has no proprietary interest, any feces, or other waste matter. In the event any such dog or cat does discharge or deposit such matter in such a location, and the owner, keeper or person in control of such dog or cat is present, such person shall immediately remove and lawfully dispose of such matter.
(Code 2015, § 9.31(7)(D); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-43. Rabies prevention and control.

(a) *Vaccination required.* Any dog or cat, over 12 weeks of age, kept or permitted to enter or remain within the city shall be vaccinated against rabies. It is unlawful for any person owning, harboring or keeping any dog or cat to keep or harbor such dog or cat within the city unless such dog or cat has been vaccinated against rabies by a licensed veterinarian or licensed kennels.

(b) *Vaccination certificate.* Before any dog or cat is registered as required by this section, the applicant shall provide evidence that the dog or cat has been vaccinated against rabies. Every dog or cat over the age of 12 weeks shall be vaccinated with a vaccine which shall ensure at least a 12-month immunization from the date of immunization and shall be re-vaccinated to keep such animal immunized against rabies.

(c) *Confinement.* In the event any animal, cat or dog is suspected to have rabies; or reasonable grounds exist for suspecting such animal to have been exposed to rabies; or if any animal, cat or dog has been bitten by another animal suspected of having rabies, the owner or keeper of such animal, cat or dog shall cause, at the expense of such owner or keeper, such animal to be confined and isolated for a period of ten days in the owner/keeper's home unless otherwise specified by the city. Upon ascertaining that an animal, or dog or cat is rabid, the owner or keeper thereof shall notify the police department or health department that such animal, dog or cat is rabid, whereupon the department notified shall cause such animal to be destroyed.

(d) *Removal.* It is unlawful for any person suspecting or having reasonable grounds to suspect that any animal, dog or cat has rabies, to remove such animal beyond the limits of the city without first having obtained the written permission of the animal control officer.

(e) *Counterfeit tags.* It is unlawful for any person to counterfeit or attempt to counterfeit any tag for which this section provides.
(Code 2015, § 9.31(9); Ord. of 8-13-2007; Ord. of 9-8-2014)

Secs. 4-44—4-74. Reserved.

DIVISION 2. POTENTIALLY DANGEROUS AND DANGEROUS DOGS

Sec. 4-75. Potentially dangerous dogs.

(a) *Declaration.* A city animal control officer or other law enforcement official shall determine that a dog is a potentially dangerous dog if the animal has:

(1) Without provocation, inflicted bites on a human or domestic animal on public or private property;

(2) Without provocation, chased or approached a person upon the streets, sidewalks or other public or private property, other than the dog owner's property, in an apparent attitude of attack; or

(3) Has a known propensity, tendency or disposition to attack without provocation, causing injury or otherwise threatening the safety of humans or domestic animals.

(b) *Notice of declaration to owner.* Upon a determination by an animal control officer or other law enforcement official that a dog is potentially dangerous, the city shall serve a notice of potentially dangerous dog on the owner of such dog. Notice shall be served upon the owner of the dog personally or by certified mail. Service upon any owner is effective as to all owners.

(c) *Registration.* No person may own, possess, keep, harbor, maintain or otherwise have a potentially dangerous dog in the city unless the dog is currently registered as provided in this section. Registration must be completed within 14 days from the owner's receipt of the notice of a potentially dangerous dog.

(d) *Certificate of registration.* The city shall issue an annual certificate of registration to the owner of the potentially dangerous dog if the owner presents sufficient evidence of the following:

(1) A fee: Payment has been made for the annual potentially dangerous dog registration fee.

(2) A proper enclosure: An owner of a potentially dangerous dog will keep the dog in a proper enclosure that has been inspected and approved by the city.

(3) A tag: A potentially dangerous dog must have a standardized, easily identifiable tag identifying the dog as potentially dangerous and containing the uniform potentially dangerous dog symbol required by the city affixed to the dog's collar at all times.

(4) A surety bond or policy of liability insurance: An owner of a potentially dangerous dog will obtain a surety bond issued by a surety company authorized to conduct business in the state in of at least $50,000.00, payable to any person injured by the potentially dangerous dog, or a policy of liability insurance has been issued by an insurance company authorized to conduct business in the state in the amount of at least $50,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog.

(5) A microchip implant: All owners of dogs declared potentially dangerous shall cause the dog to be implanted with a microchip for identification and provide the city's animal control officer with the name of the microchip manufacturer and the serial number of the implanted microchip.

(Code 2015, § 9.31(11)(B); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-76. Dangerous dogs.

(a) *Declaration.* A city animal control officer or other law enforcement official shall determine that a dog is a dangerous dog if the animal has:

(1) Without provocation, inflicted substantial bodily harm on a human being on public or private property;

(2) Killed or caused substantial bodily harm to a domestic animal without provocation while off the owner's property; or

(3) Been previously found to be potentially dangerous, and after the owner has been given notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(b) *Notice to owner.* Upon a determination by an animal control officer or other law enforcement official that a dog is dangerous, the city shall serve a notice of dangerous dog to the owner of such dog. Notice shall be served upon the owner of the dog personally or by certified mail. Service upon any owner is effective as to all owners.

(c) *Registration.* No person may own, possess, keep, harbor, maintain or otherwise have a dangerous dog in the city unless the dog is currently registered as provided in this section. Registration must be completed with 14 days from owner's receipt of notice of dangerous dog.

(d) *Certificate of registration.* The city shall issue an annual certificate of registration to the owner of the dangerous dog if the owner presents sufficient evidence of the following:

(1) A fee: Payment has been made for the annual dangerous dog registration fee.

(2) A proper enclosure: An owner of a potentially dangerous dog will keep the dog in a proper enclosure that has been inspected and approved by the city.

(3) A warning symbol: All owners of dangerous dogs within the city shall display, in a prominent place on their property, a warning symbol approved by the state commissioner of public safety to inform children that there is a dangerous dog on the property. In addition, a similar symbol is required to be posted on the property enclosure of such animal.

(4) A tag: A dangerous dog must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol required by the city affixed to the dog's collar at all times. The tag shall be of design approved by the state commissioner of public safety.

(5) A surety bond or policy of liability insurance: An owner of a dangerous dog has obtained a surety bond issued by a surety company authorized to conduct business in the state in of at

least $300,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance has been issued by an insurance company authorized to conduct business in the state in the amount of at least $300,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog.

(6) A microchip implant: All owners of dogs declared dangerous shall cause the dog to be implanted with a microchip for identification and provide the city animal control officer with the name of the microchip manufacturer and the serial identification number of the implanted microchip.

(e) *Neutering/altering.* Upon the designation of a dog as dangerous, the animal control officer shall require the owner to cause the dog to be sterilized at the owner's expense and provide the city animal control officer with proof thereof, including the name, address and telephone number of the veterinarian who performed the procedure, within 30 days of the date the dog was determined to be dangerous. If the owner does not have the animal sterilized within 30 days, the city's animal control officer shall seize the dog and have it sterilized at the owner's expense.
(Code 2015, § 9.31(11)(C); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-77. Leash and muzzle.

An owner of a potentially dangerous or dangerous dog shall keep the dog, when not confined in a proper enclosure, muzzled and restrained by a substantial leash not longer than four feet and under the physical restraint of a responsible person.
(Code 2015, § 9.31(11)(D); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-78. Exemption.

A dog shall not be declared a potentially dangerous or dangerous dog if the threat, injury, or damage was sustained by a person:

(1) Who was committing, at the time, an unlawful trespass or other tort upon the premises occupied by the owner of the dog;

(2) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or

(3) Who was committing or attempting to commit a crime.
(Code 2015, § 9.31(11)(E); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-79. Law enforcement; exemption.

The provisions of this division do not apply to dogs used by law enforcement officials for police work.
(Code 2015, § 9.31(11)(F); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-80. Appeal of designation.

An owner may request a hearing to appeal the designation in the manner provided in chapter 2, article III, division 2.
(Code 2015, § 9.31(11)(G); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-81. Requirements of owner pending appeal.

During a pending appeal, an owner of a declared potentially dangerous or dangerous dog shall comply with the following requirements:

(1) *Proper enclosure.* An owner will keep the dog in a proper enclosure that has been inspected and approved by the city.

(2) *Leash and muzzle.* An owner shall keep the dog, when not confined in a proper enclosure, muzzled and restrained by a substantial leash not longer than four feet and under the physical restraint of a responsible person.
(Code 2015, § 9.31(11)(H); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-82. Confiscation.

(a) *Seizure.* The city's animal control officer or any law enforcement official shall immediately seize any potentially dangerous or dangerous dog if, after 20 days after the date of the notice of the designation, the owner has not filed an appeal of the designation, and:

(1) The dog is not validly registered under this division;

(2) The dog is not maintained in the proper enclosure;

(3) The dog is outside the proper enclosure and not under physical restrain of a responsible person as required under this division;

(4) The owner does not secure the proper surety coverage or liability insurance as required under this division; or

(5) The declared dangerous dog is not sterilized within 30 days of registration as a dangerous dog as required by section 4-76(e).

(b) *Reclamation.* An owner may reclaim a potentially dangerous or dangerous dog seized under this section by paying impounding and boarding fees and presenting proof to the city that the requirements of this division have been met. If the dog is not currently registered within the city as required by this chapter, it must be registered and the owner must pay the administrative costs for registration by city staff before the dog may be released to the owner. The city may dispose of a dog that is not reclaimed within ten days and the owner is liable to the city for costs incurred in confining and disposing of the dog.
(Code 2015, § 9.31(11)(I); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-83. Destruction of dog in certain circumstances.

(a) A dog may be destroyed in a proper and humane manner by the city's animal control officer or contracted licensed kennel if the dog:

(1) Inflicted substantial or great bodily harm on a human on public or private property without provocation;

(2) Inflicted multiple bites on a human on public or private property without provocation;

(3) Bit multiple human victims on public or private property in the same attack without provocation; or

(4) Bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

(b) The animal control officer may not destroy the dog until the dog owner has had the opportunity for a hearing as prescribed by section 4-80. Upon a determination following appeal that destruction is appropriate, the owner of the dangerous dog shall pay the costs incurred in confiscation, boarding and destruction.
(Code 2015, § 9.31(11)(J); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-84. Fees.

The city may charge the owner an annual fee, as provided in the city fee schedule, to obtain a certificate of registration for a potentially dangerous or a dangerous dog under this division. Fees, as provided in the city fee schedule, may also be charged for signs and tags that are designated as the official symbol of a potentially dangerous or dangerous dog.
(Code 2015, § 9.31(11)(K); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-85. Notice of removal.

An owner of a potentially dangerous or dangerous dog must notify the animal control officer, in writing, of the death of the dog or its transfer to a new owner or jurisdiction within 30 days of the death or transfer. The owner will provide the animal control officer with the name, address and telephone number of the new owner, or address where the dog will reside in the new jurisdiction. An animal that has been removed from the city pursuant to this section may not reenter the city.
(Code 2015, § 9.31(11)(L); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-86. Notice to property owner.

A person who owns a potentially dangerous or dangerous dog and who rents property from another where the dog will reside, must disclose to the property owner prior to entering the lease agreement and at the time of the lease renewal, that the person owns a potentially dangerous or dangerous dog that will reside at the property.
(Code 2015, § 9.31(11)(M); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-87. Penalties.

In shall be unlawful for the owner of a potentially dangerous dog or a dangerous dog to fail to comply with the requirements and conditions set forth in this division. A violation of any provision of this division shall be a misdemeanor.
(Code 2015, § 9.31(11)(N); Ord. of 8-13-2007; Ord. of 9-8-2014)

Sec. 4-88. Dog ownership prohibited by state law.

Ownership of a dog within the city may be prohibited under the provisions of M.S.A. § 347.542.
(Code 2015, § 9.31(11)(O); Ord. of 8-13-2007; Ord. of 9-8-2014)

Chapter 5

BUILDINGS, HOUSING AND CONSTRUCTION

Article I. In General

Sec. 5-1. Purpose.
Sec. 5-2. Definitions.
Sec. 5-3. Authority and right of entry.
Secs. 5-4—5-18. Reserved.

Article II. Construction Codes

Division 1. Generally

Sec. 5-19. State building code adopted by reference.
Sec. 5-20. Fences.
Sec. 5-21. Fire protection.
Secs. 5-22—5-43. Reserved.

Division 2. Fire Code

Sec. 5-44. Adoption.
Sec. 5-45. Definitions.
Sec. 5-46. Enforcement.
Sec. 5-47. Aboveground liquid storage limits.
Sec. 5-48. Liquefied petroleum gas storage limits.
Sec. 5-49. Explosive and blasting agent storage limits.
Sec. 5-50. Fires or barbecues on balconies or patios.
Sec. 5-51. Notices and orders.
Sec. 5-52. Prohibition.
Sec. 5-53. Violation.
Secs. 5-54—5-81. Reserved.

Division 3. Housing Code

Sec. 5-82. Adopted by reference; exceptions and modifications.
Sec. 5-83. Appeals.
Sec. 5-84. Waiver.
Sec. 5-85. Filing.
Sec. 5-86. Appeal to council.
Sec. 5-87. Inspection upon complaint.
Secs. 5-88—5-115. Reserved.

Article III. Permits

Sec. 5-116. Building permits.
Sec. 5-117. Structure moving permit.
Sec. 5-118. Plumbing permit required.
Sec. 5-119. Mechanical permit required.

Secs. 5-120—5-149. Reserved.

Article IV. Public Safety Radio Transmissions

Sec. 5-150. Public safety 800 MHz radio frequency coverage.

ARTICLE I. IN GENERAL

Sec. 5-1. Purpose.

(a) The purpose of this chapter is to provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the use and occupancy, location and maintenance of all residential buildings and structures within this jurisdiction.

(b) The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by this article.

(c) Objectives of this chapter include, but are not limited to:

(1) Protect the character and stability of residential areas within the city.

(2) Correct or prevent housing conditions that adversely affect, or are likely to adversely affect, life, safety, health and general welfare of residents.

(3) Provide minimum standards for heating, sanitary equipment and light and ventilation necessary to protect the health and safety of building occupants.

(4) Provide minimum standards for the maintenance of existing residential buildings, thus preventing substandard housing and blight.

(5) Preserve the value of land and buildings throughout the city.

(d) Except as otherwise provided by terms of this chapter or any other ordinance, regulation or law, the city, its employees or agents will not intrude upon the accepted contractual relationships between landlord and tenant. The city, its employees or agents will not intervene as an advocate of either party.

(Code 2015, § 13.01; Ord. of 6-29-1998)

Sec. 5-2. Definitions.

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

Extermination means the control and elimination of insects, rodents or other pests by eliminating their places of harborage; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating; or by any other recognized and legal pest elimination method. The term "extermination" shall include removing all signs of extermination thereafter.

Infestation means the presence of insects, rodents or other pests within or around the buildings on the premises.

Nonconforming use means a use of land or occupancy that does not comply with the regulations of this chapter but which did conform to regulations in effect at the time of original occupancy or licensing.

Occupant means any person living, sleeping, eating or cooking within a dwelling unit.

Premises means the dwelling and its land and all buildings thereon.

Repair means to restore to a sound, acceptable state of operation, serviceability or appearance.

Replace or *replacement* means to remove all or a portion of an existing system or structure and to construct or install a new item of a quality similar to that of the item replaced when it was new. Replacement ordinarily takes place when repair of an item is impractical.

Safety means the condition of being reasonably free from danger and hazards which may cause injury or illness.
(Code 2015, § 13.04; Ord. of 6-29-1998)

Sec. 5-3. Authority and right of entry.

(a) *Authority.*

(1) The city manager, or their designee, is hereby authorized and directed to enforce all of the provisions of this chapter. For such purposes, they shall be known and appointed as enforcement officers having the authority to issue notices of violation and criminal citations for violations of this article.

(2) The city manager, or their designee, shall have the power to render interpretations of the code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

(b) *Right of entry.* When it is necessary to make an inspection to enforce the provisions of this chapter or when the city manager, or their designee, has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter, they may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that, if such building or premises is occupied, shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the city manager or their designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If consensual entry is refused or not obtained, the city manager or designated compliance officer is authorized to pursue recourse as provided by law.
(Code 2015, § 13.19(1), (2); Ord. of 6-29-1998)

Secs. 5-4—5-18. Reserved.

ARTICLE II. CONSTRUCTION CODES

DIVISION 1. GENERALLY

Sec. 5-19. State building code adopted by reference.

(a) *Building code.* The state building code, as adopted by the commissioner of administration pursuant to M.S.A. ch. 326B, including all of the amendments, rules and regulations established, adopted and published from time to time by the state commissioner of administration, through the

building codes and standards division, is hereby adopted by reference, with the exception of the optional chapters, unless specifically adopted in this section. The state building code is incorporated in this section as if fully set out herein.

(b) *Building code optional chapters.* The state building code allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the state building code. Accordingly, the following optional provisions identified in the most current edition of the state building code are adopted and incorporated as part of this section:

(1) Chapter 1335, Floodproofing regulations, pts. 1335.0600 to 1335.1200.

(2) Appendix chapter K (Grading), of the 2001 Supplements to the International Building Code.

(c) *Application, administration and enforcement.* The application, administration, and enforcement of this section shall be in accordance with state administrative rules.

(d) *Building official.* A state-certified building official shall be appointed by the city manager, or his or her designee, to administer and enforce this section.

(e) *Permits and fees.* Prior to undertaking any activity governed by the building code, a permit shall be required from the city. It shall be the responsibility of the property owner and the persons undertaking the activity to ensure that a permit has been lawfully obtained.

(1) Application for a building permit shall be made to the building official, or designee, upon blank forms furnished by the building official. Applications shall be accompanied by the necessary information and plans as required for review under the building code.

(2) The person undertaking the work for which the permit was issued shall notify the building official, or designee, whenever the work has progressed to a point that a required inspection is necessary.

(3) Permit fees shall be assessed for work governed by this code in accordance with a resolution of the city council. In addition, a surcharge fee, as provided in the city fee schedule, shall be collected on all permits issued for work governed by this code in accordance with state law.

(f) *Violations and penalties.* A violation of this section is a misdemeanor as set forth in state law. (Code 2015, § 12.01; Ord. of 1-22-1979; Ord. of 1-25-1982; Ord. of 4-28-1997; Ord. of 4-28-2003; Ord. No. 15-0323-4, § 12.01, 3-23-2015)

Sec. 5-20. Fences.

(a) No fence more than 30 inches in height shall be erected unless a fence permit has first been obtained from the building official or designee.

(b) No fence, wall, shrubbery or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance

along each line of 25 feet from their point of intersection. Structures permitted under chapter 10, article V, divisions 4, 5 and 9 may encroach into the required sight triangle, provided that the structure location does not unduly restrict vehicular or pedestrian sight distances.

(c) Every fence must be structurally sound and maintained in good repair.

(d) Fences must be maintained so as not to endanger life or property and any fence which, through lack of repair, type of construction or otherwise, that imperils health, life or property, or the well-being of a neighborhood shall be deemed a nuisance.

(e) All fences shall comply with the provisions of section 10-1746.

(f) Public nuisance. A violation of this section is declared to be a public nuisance which may be abated according to the provisions of chapter 11.
(Code 2015, §§ 12.71, 13.10(6); Ord. of 4-28-1997; Ord. of 6-29-1998; Ord. of 2-23-2009)

Sec. 5-21. Fire protection.

(a) *Fire-resistive construction.* All buildings, or portions thereof, shall be provided with the degree of fire-resistive construction as required by the building and fire codes for the appropriate occupancy, type of construction and location on property. All rental properties in existence as of the date of adoption of the ordinance from which this section is derived shall comply with the following minimum requirements by December 31, 2003; owner-occupied residential properties must comply with these requirements on the date of sale of the property; residential buildings constructed after the date of adoption of the ordinance from which this section is derived must comply with these requirements at the time of construction:

(1) *Separation required.* The garage shall be separated from the residence and its attic area by not less than one-half-inch gypsum board applied to the garage side. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than one-half-inch gypsum board or equivalent.

(2) *Opening protection.* Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 ⅜-inch thickness, solid or honeycomb core steel doors not less than 1 ⅜ inches thick, or 20-minute fire-rated doors.

(3) *Under-stair protection.* Enclosed accessible space under stairs shall have walls, and the under-stair surface and any soffits shall be protected on the enclosed side with one-half-inch gypsum board.

(b) *Maintenance of fire-resistive construction.* Any fire-resistive construction shall be maintained in good order. No person shall cause pipe, wire, cable or any other object to penetrate any fire-resistive wall or ceiling unless such opening shall be sealed with a fire-resistive sealant of at least one-hour fire rating.
(Code 2015, § 13.15; Ord. of 6-29-1998; Ord. of 10-27-2003)

Secs. 5-22—5-43. Reserved.

DIVISION 2. FIRE CODE

Sec. 5-44. Adoption.

The state fire code is adopted by reference as though set forth verbatim herein, except such portions as are amended or notified.
(Code 2015, § 12.05(1); Ord. of 12-11-1989; Ord. of 9-13-1993; Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(1), 3-23-2015; Ord. No. 17-0410-2, § 12.05(1), 4-10-2017)

Sec. 5-45. Definitions.

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

Chief, as used in the state fire code, means and includes the state fire marshal and the director of public safety.

Jurisdiction, as used in the state fire code, means the city.
(Code 2015, § 12.05(3); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(3), 3-23-2015; Ord. No. 17-0410-2, § 12.05(3), 4-10-2017)

Sec. 5-46. Enforcement.

The director of public safety, or such agent or representative as may be designated by the director of public safety, shall enforce the provisions of this division. The city department of public safety shall administer and enforce this division and all laws of the state pertaining to:

(1) The prevention of fires.

(2) The suppression or extinguishing of dangerous or hazardous fires.

(3) The storage, use and handling of explosive, flammable, combustible, toxic, corrosive and other hazardous gaseous, solid and liquid materials.

(4) The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment.

(5) The maintenance and regulation of fire escapes.

(6) The maintenance of fire protection and elimination of fire hazards on land and in buildings, structures, and other property, including those under construction.

(7) The means and adequacy of each exit in the event of fire.

(8) The investigation of the cause, origin, and circumstances of fire.
(Code 2015, § 12.05(2); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(2), 3-23-2015; Ord. No. 17-0410-2, § 12.05(2), 4-10-2017)

Sec. 5-47. Aboveground liquid storage limits.

(a) The storage of flammable or combustible liquids in outside aboveground tanks is prohibited within the city limits, except in such areas pursuant to the provisions of chapter 10.

(b) The temporary storage of flammable or combustible liquids in tanks no larger than 125 gallons is permitted in the city limits. The installation requires a permit. There must be at least five feet of clearance to any property line and the tank must be properly secured and valves protected according to the state fire code.

(c) The construction of any new bulk plant for the storage of flammable or combustible liquids is prohibited within the city limits, except in such areas pursuant to the provisions of chapter 10.
(Code 2015, § 12.05(4); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(4), 3-23-2015; Ord. No. 17-0410-2, § 12.05(4), 4-10-2017)

Sec. 5-48. Liquefied petroleum gas storage limits.

The bulk storage of liquefied petroleum gas is prohibited within the city limits, except in such areas as are zoned M-2 pursuant to the provisions of chapter 10.
(Code 2015, § 12.05(5); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(5), 3-23-2015; Ord. No. 17-0410-2, § 12.05(5), 4-10-2017)

Sec. 5-49. Explosive and blasting agent storage limits.

The storage of explosives and blasting agents is prohibited within the city limits, except with chapter 8, article II.
(Code 2015, § 12.05(6); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(6), 3-23-2015; Ord. No. 17-0410-2, § 12.05(6), 4-10-2017)

Sec. 5-50. Fires or barbecues on balconies or patios.

(a) *Open flame prohibited.* In any structure containing three or more dwelling units, no person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of the structure.

(b) *Fuel storage prohibited.* No person shall store or use any fuel, barbecue torch, or other similar heating or lighting chemical or device in the locations designated in section 5-47(b).

(c) *Exception.* Listed electrical or gas-fired barbecue grills that are permanently mounted and wired or plumbed to the building's gas supply or electrical system and that maintain a minimum clearance of 18 inches on all sides, unless listed for lesser clearances, may be installed on balconies and patios when approved by the fire chief.
(Code 2015, § 12.05(7); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(7), 3-23-2015; Ord. No. 17-0410-2, § 12.05(7), 4-10-2017)

Sec. 5-51. Notices and orders.

Any order or notice authorized or required by this division shall be given or served upon the owner, operator, occupant or other person responsible for the condition or violation either by oral notification, personal service, or by delivering the same to and leaving it with some person of suitable age and discretion upon the premises; or, if no such person is found on the premises, by affixing a copy

thereof in a conspicuous plan on the door to the entrance of the premises and by mailing a copy thereof to such person by mail to his last known address. Orders or notices given orally shall be confirmed by service in writing as herein provided.
(Code 2015, § 12.05(8); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(8)(1), 3-23-2015; Ord. No. 17-0410-2, § 12.05(8), 4-10-2017)

Sec. 5-52. Prohibition.

It is unlawful for any person to violate any provision of the state fire code, as amended herein, or this division, or to fail to comply therewith, or to violate or fail to comply with any valid order thereunder, or to erect or build any structure in violation or not in compliance with specifications or plans submitted and approved thereunder. Except as otherwise specifically provided herein, each day on which a prohibited condition exists shall constitute a separate offense.
(Code 2015, § 12.05(11); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(10), 3-23-2015; Ord. No. 17-0410-2, § 12.05(11), 4-10-2017)

Sec. 5-53. Violation.

Any person or occupancy who violates any portion of the state fire code or this division shall be guilty of a misdemeanor.
(Code 2015, § 12.05(12); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(11), 3-23-2015; Ord. No. 17-0410-2, § 12.05(12), 4-10-2017)

Secs. 5-54—5-81. Reserved.

DIVISION 3. HOUSING CODE

Sec. 5-82. Adopted by reference; exceptions and modifications.

(a) The Uniform Housing Code, published by the International Conference of Building Officials, is hereby adopted by reference as though set forth verbatim, except as otherwise provided in this section.

(b) Sections not adopted. Sections 203, 1201, 1202, 1203, 1204, 1301, 1302, 1303, 1304, and 1305 are expressly not adopted.

(c) Section 1101 modified. Section 1101 is modified to read as follows:

(1) *Commencement of proceedings.* Whenever possible, a building inspection shall be initiated within three business days of receipt of any complaint alleging a particular building to be substandard. Whenever the city manager or designee has inspected or caused to be inspected any building in a manner pursuant to section 5-3(b) and has found and determined that such building is a substandard building, he shall commence proceedings to cause the repair, rehabilitation, vacation, or demolition of the building.

(2) *Notice and order.* The city manager or designee shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

a. The street address and a legal description sufficient for identification of the premises upon which the building is located.

b. A statement that the city manager or designee has found the building to be substandard with a brief and concise description of the conditions found to render the building dangerous under the provisions of section 202 of this housing code.

c. A statement of the action required to be taken as determined by the city manager or designee.

1. If the city manager or designee has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 30 days from the date of the order) and completed within such time as the city manager or designee shall determine is reasonable under all of the circumstances.

2. If the city manager or designee has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the city manager or designee to be reasonable.

3. If the city manager or designee has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the city manager or designee shall determine reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the city manager or designee shall determine is reasonable.

d. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the city manager or designee:

1. Will order the building vacated and posted to prevent further occupancy until the work is completed; and

2. May proceed to cause the work to be done and charge the costs thereof against the property or its owner.

e. Statements advising that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the city manager or designee as provided in this section.

(d) Section 201 modified. Section 201.1 is modified to read as follows:

Authority. The city manager or designee is hereby authorized and directed to enforce all of the provisions of this code. For such purposes, the city manager or designee shall have the powers of enforcement. The city manager or designee shall have the power to render interpretations of

this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code.

(Code 2015, § 12.80(1)—(3); Ord. of 3-10-1975; Ord. of 9-28-1981; Ord. of 8-12-1996; Ord. of 6-29-1998; Ord. No. 15-0323-4, § 12.80(1)—(3), 3-23-2015)

Sec. 5-83. Appeals.

(a) Any person aggrieved by any notice or order of the city manager or designee issued under this division may file a petition for review of such notice or order, in the manner provided in chapter 2, article III, detailing his or her reasons for contesting the notice or order. The petition for review shall be on such forms as provided by the city and shall be filed with the city manager's office within ten days after the notice or order for which review is sought has been served on the person requesting review. The petition for review shall contain the name of the petitioner, the petitioner's address, location of the property subject to the notice or order, and disclose petitioner's interest in the property, along with the identity and address of all owners and lessees of the property.

(b) (1) Petitions for review may request one or more of the following actions:

a. *Variance.* A variance shall be requested when the petitioner seeks an appeal from an order which is written for a violation of city zoning regulations.

b. *Modification.* A request for modification shall be made when the petitioner seeks an appeal asking for a deviation from the requirements of this division and any other code applicable to residential structures within the city.

(2) Information regarding the appeal process shall be contained on the written notice or order.

(Code 2015, § 12.80(4); Ord. of 3-10-1975; Ord. of 9-28-1981; Ord. of 8-12-1996; Ord. of 6-29-1998; Ord. No. 15-0323-4, § 12.80(4), 3-23-2015)

Sec. 5-84. Waiver.

Persons seeking a waiver of any provision of this division in order to obtain a permit or license shall proceed in the same manner as an aggrieved person in section 5-83. Any waiver shall be granted only upon findings of fact demonstrating that compliance with the requirements of this division would cause practical difficulty and undue hardship and that granting a waiver is unnecessary, would not create a hazard to health or safety and is in harmony with the general purposes of this division.

(Code 2015, § 12.80(5); Ord. of 3-10-1975; Ord. of 9-28-1981; Ord. of 8-12-1996; Ord. of 6-29-1998; Ord. No. 15-0323-4, § 12.80(5), 3-23-2015)

Sec. 5-85. Filing.

All decisions rendered pursuant to section 5-83 shall be filed with the city manager's office.

(Code 2015, § 12.80(6); Ord. of 3-10-1975; Ord. of 9-28-1981; Ord. of 8-12-1996; Ord. of 6-29-1998; Ord. No. 15-0323-4, § 12.80(6), 3-23-2015)

Sec. 5-86. Appeal to council.

Any decision rendered pursuant to section 5-83 may be appealed to the city council. A petitioner seeking a decision must file a written notice of appeal with the city manager's office within ten days after the decision has been mailed to the petitioner. The matter will thereupon be placed on the council agenda as soon as is practical. The council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the council that the findings and conclusions were incorrect, the council may modify, reverse, or affirm the decision of the city manager, or his designee.
(Code 2015, § 12.80(7); Ord. of 3-10-1975; Ord. of 9-28-1981; Ord. of 8-12-1996; Ord. of 6-29-1998; Ord. No. 15-0323-4, § 12.80(7), 3-23-2015)

Sec. 5-87. Inspection upon complaint.

Any residential property within the city is subject to investigation upon complaint by any citizen or city employee. Complaints shall be investigated in accordance with the following schedule:

(1) *Complaints involving immediate substantial risk to life or safety.* Such complaints shall be investigated immediately by the city manager or their designee to verify the existence of conditions presenting immediate threat to life or safety.

(2) *Complaints with a significant potential of risk to life or safety.* Such complaints shall be investigated within 24 hours of receipt by the city manager or their designee to verify the existence of conditions in violation of this article or any other applicable statute, ordinance, code or regulation.

(3) *All other complaints.* Such complaints against residential property not outlined in subsection (1) or (2) of this section shall be investigated within 72 hours of receipt by the city manager, or their designee, who shall inspect the property to verify the existence of conditions in violation of this article or any other applicable statute, ordinance, code or regulation.

(Code 2015, § 13.06(4); Ord. of 6-29-1998)

Secs. 5-88—5-115. Reserved.

ARTICLE III. PERMITS

Sec. 5-116. Building permits.

(a) *General requirements for permits.* No building or structure regulated by this article shall be erected, constructed, enlarged. altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the office of the city building official in the manner and according to the applicable conditions prescribed in the building code.

(b) *Inspection following issuance of permits.* Buildings or structures within the scope of this article and all construction or work for which a permit is required shall be subject to inspection by the city building official in accordance with and in the manner provided by this article, and any other

applicable law, ordinance, code or regulation. Inspections by the city building official does not preclude inspections by others authorized by this article or any other statute, ordinance, code or regulation.

(c) *Time limits for construction authorized by a building permit.*

(1) When a building permit is issued for the construction of a new structure or for the exterior alteration of an existing structure, all exterior work authorized by the building permit shall be completed within 18 months of the date the building permit was issued, and all exterior surfaces of the building addressed by the building permit shall comply with city building regulations.

(2) The building official may grant an extension, not to exceed 12 months, to the time limit contained in subsection (a) of this section, provided the building official's findings for the extension are related to a unique circumstance and the activities authorized by the building permit have been engaged in a timely manner. A unique circumstance may include, but is not limited to, product shortages, inclement weather, labor disputes, project complexity and size, governmental actions, and financial difficulties.

(3) The enforcement of this section is authorized per section 12-1(e). Appeals from the decision of the building official regarding the issuance of extensions shall be heard according to the administrative hearing process set forth in chapter 2.

(Code 2015, §§ 12.03, 13.05(1), (3); Ord. of 10-23-1995; Ord. of 4-28-1997; Ord. of 6-29-1998; Ord. No. 15-0323-4, § 12.03, 3-23-2015)

Sec. 5-117. Structure moving permit.

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

Structure means any house, barn, garage, commercial building or other structure, any portion of which extends to a height of 12 feet or more above the street level when being moved or placed upon a public street, and which has a width of 12 feet or more.

(b) *Permit required.* It is unlawful for any person to move, transport, convey, place or leave standing any structure over, across or along any public street within the city without first having obtained a permit therefor from the city.

(c) *Permit fee.* The fee for a moving permit for a specific structure shall be established by resolution of the city council and as provided in the city fee schedule.

(d) *Application for permit.* Each application for a permit required by this section shall be made at the office of the city building inspector upon such form as the building inspector may prescribe. Each application shall state:

(1) The location of the structure to be moved prior to such move;

(2) The location to which the structure is to be moved;

(3) The size, height, estimated weight and general description of the structure to be moved;

(4) The street or streets over which the structure is to be moved; and

(5) The proposed date and hours of moving.

(e) *Regulations.*

(1) *Insurance.* No permit required by this section shall be granted until the applicant has obtained and filed in the office of the building inspector evidence of a policy of insurance, issued by an insurance company authorized to do business in the state, in such amount as may be required by the building inspector, naming the city as an original or additional named insured party providing coverage for all damages and costs which the city may incur or for which the city may become liable as a result of the moving authorized by such permit, including any damage resulting to any street, boulevard, sidewalk, tree or utility.

(2) *Utility facilities.* It shall be the responsibility of the applicant to obtain permission from the owner of any utility for any activity affecting such utility, and the granting of the permit for which this section provides shall not relieve the applicant of such responsibility.

(3) *Designated time and route.* Any move accomplished pursuant to a permit for which this section provides shall be made only during such times and on or across such streets as may be designated by the building inspector at or prior to the issuance of such permit. Any such designation shall be made on the basis of the capacity of such streets with respect to physical and traffic characteristics of such streets to accommodate such a move.

(Code 2015, § 12.04; Ord. No. 146, 8-11-1958; Ord. of 2-26-1979; Ord. of 10-13-2003)

Sec. 5-118. Plumbing permit required.

(a) *Permits and fees.* Prior to undertaking any activity governed by the state plumbing code, a plumbing permit shall be required from the city. It shall be the responsibility of the property owner and the persons undertaking the activity to ensure that a permit has been lawfully obtained.

(1) Applications for a plumbing permit shall be made to the building official, or designee, upon blank forms furnished by the building official. Applications shall be accompanied by the necessary information and plans as required for review under the state plumbing code.

(2) No permit shall be issued to anyone except a licensed master plumber who has obtained such license from the state department of health, except as provided in the state plumbing code.

(3) No permit shall be required for minor repair work. The term "minor repair work" means the repairs of leaks in pipes, traps and faucets, opening of clogged waste and supply pipes inside the walls of buildings, provided that where any change is made in waste pipes or fixtures, inspection is required and a permit must be obtained.

(4) The person undertaking the work for which the permit was issued shall notify the building official, or designee, whenever the work has progressed to a point at which a required inspection is necessary.

(5) Any plumbing work effecting or involving any municipal utility, as defined in chapter 17, shall comply with the standards and ordinances established for the utility.

(6) Permit fees shall be assessed for work governed by the state plumbing code in accordance with a resolution of the city council. In addition, a surcharge fee shall be collected on all permits issued for work governed by the state plumbing code in accordance with state statute.

(b) *Violations and penalties.* A violation of this section is a misdemeanor as set forth in state law. (Code 2015, § 12.50; Ord. of 4-28-1997)

Sec. 5-119. Mechanical permit required.

(a) *Permits and fees.* Prior to undertaking any activity governed by the state mechanical code, a mechanical permit shall be required from the city. It shall be the responsibility of the property owner and the persons undertaking the activity to ensure that a permit has been lawfully obtained.

(1) Applications for a mechanical permit shall be made to the building official, or designee, upon blank forms furnished by the building official. Applications shall be accompanied by the necessary information and plans as required for review under the state mechanical code.

(2) The person undertaking the work for which the permit was issued shall notify the building official, or designee, whenever the work has progressed to a point at which a required inspection is necessary.

(3) Permit fees shall be assessed for work governed by this code in accordance with a resolution of the city council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with state statute.

(b) *Violations and penalties.* A violation of this section is a misdemeanor as set forth in state law.

Secs. 5-120—5-149. Reserved.

ARTICLE IV. PUBLIC SAFETY RADIO TRANSMISSIONS

Sec. 5-150. Public safety 800 MHz radio frequency coverage.

(a) *Intent and purpose.* To protect the public health, safety and general welfare of the community and its people through the establishment of minimum standards and regulations governing acceptable levels of public safety radio transmission within and about structures. This agreement shall provide public safety and emergency personnel the means to communicate with each other within buildings and structures, and to communicate from within the structure to personnel and locations outside the building and structure, through 800 MHz radio devices. A breakdown in communications among emergency providers and personnel creates a serious risk of harm to and poses a serious threat to the safety and welfare of emergency personnel, the citizens and the public in general.

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

800 MHz radio means a trunked radio system and components thereof, capable of operation in both the 700 MHz and 800 MHz frequency spectrum and designed primarily for public safety and emergency response radio communication.

Bi-directional amplifier (BDA) means a system which consists of one or more amplifiers located inside a confined environment and is connected to an internal and external antenna network.

Bit error rate (BER) means the percentage of data bits received that have errors relative to the total number of bits received in a transmission, usually expressed as ten to a negative power.

Decibels per milliwatt (dBm) means a standard unit for measuring levels of power in relation to a one milliwatt reference signal.

Signal booster means a device, typically located at a fixed location, that automatically receives, amplifies, and retransmits on a one-way or two-way basis the signals received from base, fixed, mobile, and portable stations with no change in frequency or authorized bandwidth.

Signal strength means the measure of the performance of a bi-directional amplifier based on one input signal adequate to obtain a maximum continuous operating output level.

(c) *Adequate radio coverage.* Except as otherwise provided, no person shall erect, construct, alter, refit, change use of, or provide an addition of more than 20 percent of the floor area, or cause the same to be done, to any building or structure or any part thereof, which fails to support adequate radio coverage for emergency personnel and public safety personnel in accordance to the 800 MHz trunked regional public safety radio system. For the purposes of this section, parking garages, parking ramps, stair shafts, elevators and stairwells are included in the definition of the term "building." Also, for the purposes of this section, the term "adequate radio coverage" shall constitute a radio signal received:

(1) Of 93 dBm minimum signal strength and no more than one percent BER, as measured at 30 to 36 inches above the floor over 90 percent of the area of each floor of the building, structure and other critical areas as determined by the fire chief or the fire chief's designee; and

(2) Within a frequency range determined by the fire chief or the fire chief's designee;

(3) And with a reliability factor of not less than 90 percent.

(d) *Amplification systems.*

(1) Buildings which, unaided, cannot support the required level of radio coverage required shall, at the property owner's expense, be equipped with an APCO P-25 compliant and FCC approved bi-directional 800 MHz signal enhancement systems as needed. If any part of the installed systems contains an electrically powered component, the systems shall be capable of operating on an independent battery or generator system for a continuous period of at least 12 hours without external power input. The battery system shall automatically charge in the presence of an external power input.

(2) Exempt buildings. The requirements shall not apply to:

a. Any building which achieves the level of radio coverage required under section 5-150.

b. Any dwelling unit or accessory building in either the R-1 or R-2 district.

c. Any building with less than 25,000 square feet in gross floor area.

d. Any building of wood frame construction, provided that such building contains no metal construction or any below grade levels, including below grade parking areas.

e. Existing buildings upon adoption of the ordinance from which this section is derived; unless they erect, construct, alter, refit, change use of, or provide an addition of more than 20 percent of the floor area to the existing building.

(e) *Testing procedures.* Prior to occupancy and upon installation and activation of bidirectional 800 MHz signal enhancement systems as required, it shall be the building owner's responsibility to have such systems tested to ensure that the requirements are met. Testing procedures shall conform to practices adopted and on-file with the fire chief. The following testing procedures shall apply to each building or structure required to utilize a bi-directional amplifier or other such radio signal booster system FCC Rules as of November 29, 2001, in order to achieve the adequate radio coverage standard described:

(1) *Annual tests.* When a bi-directional amplifier or other such radio signal booster system is required, the building owner shall arrange for testing of all active components of the system, including, but not limited to, amplifiers, power supplies and backup batteries, a minimum of once every 12 months. All test results shall be submitted to the fire chief within 30 days of the test date.

a. Amplifiers shall be tested to ensure that the gain is the same as it was upon initial installation and acceptance.

b. Backup batteries and power supplies shall be tested under load for a period of one hour to verify capacity for proper operation during an actual power outage. If, within the one-hour test period, the battery exhibits symptoms of failure, the test shall be extended for additional one-hour periods until the testing technician confirms the integrity of the battery.

c. All other active components shall be checked to determine that they are operating within the manufacturer's specifications for the intended purpose. All deficiencies found shall be corrected and testing repeated.

(2) *Two five-year tests.* In addition to annual testing, the building owner shall perform a comprehensive radio coverage test a minimum of once every five years to ensure that the radio system continues to meet the requirements of the original acceptance test. All test results shall be submitted to the fire chief within 30 days of the test date.

(3) *Qualifications of testing personnel.* All tests shall be conducted, documented, and signed by a person in possession of a current FCC technician license, or a current technician certification issued by ETA. All test records shall be retained on the inspected premises by the building owner and a copy submitted to the city fire chief.

(4) *Field testing.* Fire and police personnel, after providing reasonable notice to the owner or the owner's representative, shall have the right to enter onto the property and into the structure solely to conduct testing in order to ascertain whether or not the required level of radio coverage is present.

(Code 2015, § 12.07; Ord. No. 15-0323-4, § 12.07, 3-23-2015)

Chapter 6

BUSINESSES AND LICENSING

Article I. In General

Secs. 6-1—6-17. Reserved.

Article II. Licensing

Sec. 6-18. Purpose and intent.
Sec. 6-19. Definitions.
Sec. 6-20. Applications.
Sec. 6-21. Procedure generally.
Sec. 6-22. Background checks.
Secs. 6-23—6-48. Reserved.

Article III. Specific Business Operations

Division 1. Generally

Sec. 6-49. Refuse haulers.
Secs. 6-50—6-71. Reserved.

Division 2. Carnivals

Sec. 6-72. Definitions.
Sec. 6-73. License required.
Sec. 6-74. Gambling prohibited.
Sec. 6-75. Application.
Sec. 6-76. Review.
Sec. 6-77. Conditions.
Sec. 6-78. Issuance.
Secs. 6-79—6-103. Reserved.

Division 3. Tobacco

Sec. 6-104. Purpose and intent.
Sec. 6-105. Definitions.
Sec. 6-106. License required.
Sec. 6-107. Basis for denial of license.
Sec. 6-108. Prohibited sales.
Sec. 6-109. Responsibility.
Sec. 6-110. Compliance checks and inspections.
Sec. 6-111. Other prohibited acts.
Sec. 6-112. Exceptions and defenses.
Sec. 6-113. Violations and penalty.
Secs. 6-114—6-141. Reserved.

Division 4. Peddlers, Solicitors and Similar Vendors

Sec. 6-142. Definitions.
Sec. 6-143. License required.
Sec. 6-144. Separate license.
Sec. 6-145. Display of license.
Sec. 6-146. Registration permit required for vendors.
Sec. 6-147. Practices prohibited.
Sec. 6-148. Exemptions.
Sec. 6-149. License refusal.
Sec. 6-150. Revocation of license.
Sec. 6-151. Restricted areas.
Sec. 6-152. Setbacks.
Sec. 6-153. Parking.
Sec. 6-154. Days of operation.
Secs. 6-155—6-178. Reserved.

Division 5. Transportation Network Companies

Sec. 6-179. Definitions.
Sec. 6-180. License required.
Sec. 6-181. License application.
Sec. 6-182. Qualifications.
Sec. 6-183. Investigation and license issuance.
Sec. 6-184. Insurance required.
Sec. 6-185. Vehicle ownership and standards.
Sec. 6-186. Vehicle inspections.
Sec. 6-187. Distinctive trade dress.
Sec. 6-188. Commercial advertisements prohibited.
Sec. 6-189. Driver requirements.
Sec. 6-190. Intoxicating substance policy.
Sec. 6-191. Driver identification card.
Sec. 6-192. Operating regulations.
Sec. 6-193. Services charges and fare rates.
Sec. 6-194. Records and reports.
Sec. 6-195. Violations and penalties.
Sec. 6-196. Sanctions; suspension or revocation.
Secs. 6-197—6-217. Reserved.

Division 6. Taxicabs

Sec. 6-218. Definitions.
Sec. 6-219. Business license.
Sec. 6-220. License required.
Sec. 6-221. Transfer.
Sec. 6-222. Display of license.
Sec. 6-223. Insurance required.
Sec. 6-224. Number of licenses.
Sec. 6-225. Rates.
Sec. 6-226. Drivers.
Sec. 6-227. Smoking.

Sec. 6-228. Driver impairment.
Sec. 6-229. Daily manifests.
Sec. 6-230. Certificate of inspection.
Sec. 6-231. Occupants allowed in vehicle.
Sec. 6-232. Taxicab markings.
Sec. 6-233. Business office.
Sec. 6-234. Dispatch.
Sec. 6-235. Taxicabs licensed outside city.
Sec. 6-236. Taxi stands.
Sec. 6-237. Sanctions; suspension or revocation.
Secs. 6-238—6-269. Reserved.

Division 7. Mobile Food Units

Sec. 6-270. Definitions.
Sec. 6-271. License required.
Sec. 6-272. Exemptions.
Sec. 6-273. Food hubs.
Sec. 6-274. Application.
Sec. 6-275. Inspection.
Sec. 6-276. Location review and standards.
Sec. 6-277. Conditions.
Sec. 6-278. Revocation of license.
Secs. 6-279—6-304. Reserved.

Division 8. Gambling

Sec. 6-305. Definitions.
Sec. 6-306. Applications.
Sec. 6-307. Bingo halls.
Sec. 6-308. Age restrictions.
Sec. 6-309. Multiple licenses.
Sec. 6-310. Tax.
Sec. 6-311. Proceeds.
Sec. 6-312. State lawful gambling tax return.
Sec. 6-313. Local trade area expenditures—Required.
Sec. 6-314. Local trade area expenditures—Monthly report.
Secs. 6-315—6-331. Reserved.

Division 9. Pawn Shops

Sec. 6-332. Statement of policy.
Sec. 6-333. Definitions.
Sec. 6-334. License required.
Sec. 6-335. License fees.
Sec. 6-336. Application.
Sec. 6-337. Records required.
Sec. 6-338. Daily reports to department of public safety.
Sec. 6-339. Receipt required.
Sec. 6-340. Redemption period.
Sec. 6-341. Holding period.

Sec. 6-342. Police order to hold property.
Sec. 6-343. Inspection of items.
Sec. 6-344. Label required.
Sec. 6-345. Prohibited acts.
Sec. 6-346. Denial, suspension or revocation of license.
Sec. 6-347. Business at only one location.

ARTICLE I. IN GENERAL

Secs. 6-1—6-17. Reserved.

ARTICLE II. LICENSING

Sec. 6-18. Purpose and intent.

The purpose of this article is to establish, to the maximum degree possible, a uniform system for the issuance, revocation, suspension, and renewal of licenses for all activities for which licenses and permits are required by this Code. Where a provision of this Code requiring a license contains no procedure, the provisions of this article shall apply.

Sec. 6-19. Definitions.

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

Business means any activity, occupation, sale or transaction which is licensed or regulated by the provisions of this article.

Sale, *sell* and *sold* mean all forms of barter and all manner or means of furnishing.
(Code 2015, § 5.01; Ord. of 6-26-1978)

Sec. 6-20. Applications.

(a) *Generally.* Application for a license is made to the city clerk upon forms provided by the city. The applicant shall state the location of the proposed activity and provide information required by other provisions of this Code or determined to be applicable to the granting of the particular license sought.

(b) *False statements.* It is unlawful for any person to intentionally make any false statement or to intentionally omit any required information in the completion of any application form. Any such false statement or omission shall render such application, or any license issued pursuant thereto, invalid and of no effect.
(Code 2015, § 5.02; Ord. of 6-26-1978; Ord. of 11-9-1987; Ord. of 8-12-2013)

Sec. 6-21. Procedure generally.

(a) *Issuance.*

(1) Except as specifically set forth in a particular section of this chapter, all licenses issued pursuant to this article shall be issued by the city clerk upon a determination that all conditions precedent to the issuance or renewal of the license have been met, including the payment of the applicable fees and proof of insurance, if applicable, and the applicant has no outstanding unpaid fees or penalties, or unlicensed rental properties. Such issuance of a license by the city clerk shall include any conditions recommended by other city departments if the license has been referred to such department prior to issuance.

(2) In cases where the applicant is a license holder of another city license that is currently subject to license suspension or revocation, an enforcement action for violation of this Code, unpaid administrative penalties or city utility bills or unpaid or delinquent property taxes, a new license application or transfer of license shall not be approved. In cases where an applicant is an owner or principal of a corporation or partnership which has an interest in property that is currently subject to license suspension or revocation, an enforcement action related to unlicensed rental properties, violations of this Code, unpaid administrative penalties or unpaid city utility bills, or delinquent property taxes, a new license application or a transfer of license shall not be approved.

(b) *Appeal.* A person aggrieved by the denial of a license by the city clerk or the imposition of terms in connection with the granting of a license may appeal such action to the city council. In order to appeal the decision, the applicant for the license must file a written notice of appeal with the city clerk within five days of being informed of the decision to deny the issuance of a license or the terms upon which the license will be issued. The city council will then review the decision to determine whether or not the action was correct. The city council may, in connection with its review of the action either affirm, reverse or modify the actions. The applicant shall be advised by mail of the date and time that the council will hear the applicant's appeal.

(c) *Fees.* License fees shall be established in the amount provided in the city fee schedule.

(d) *Term of license.* Except as is otherwise specifically provided, each license issued pursuant to the provisions of this license shall expire on December 31 immediately following such issuance.

(e) *Transfer.* No license issued pursuant to this article shall be transferable by the licensee to another person, business, firm, corporation, or location. No such license shall be transferable to a different location except with the prior consent of the city council or the city clerk in the case of a transfer of a license issuable without city council action and upon payment of the fee for a duplicate license as provided herein and upon such other conditions as may be specifically set forth elsewhere in this article.

(f) *License posting.* Except as otherwise specifically provided, each license issued pursuant to this article shall be posted on the premises for which the license is issued.

(g) *Duplicate license.* The city clerk shall, without city council action, issue a duplicate for any license issued pursuant to this article upon payment of a duplicate license fee, the amount of which shall be established by resolution of the city council and provided in the city fee schedule. Each duplicate license shall be clearly marked as a duplicate.

(h) *Refusal.* The city council may, in the sole discretion of the council and for any reasonable cause, refuse to grant any application for or renewal of any license.

(i) *Revocation.*

(1) The city council may either suspend, not to exceed 90 days, or revoke any license issued pursuant to this article, for good cause, including, but not limited to, a finding that the

licensee has failed to comply with any applicable statute, regulation or ordinance relating to the operation of the licensee. No suspension or revocation shall take effect until the licensee has been afforded the opportunity for a hearing provided by the city council.

(2) The licensee must make a written request for a hearing to the city clerk within five days of the date of the notice of the city's intent to recommend suspension or revocation of the license. The written request must state the license holder's specific objection to the suspension or revocation and be accompanied by payment of a fee as provided in the city fee schedule to be used to offset the costs of the hearing.

(j) *Automatic nonrenewal or revocation.*

(1) No license issued or renewed pursuant to this article shall be deemed valid until all license fees have been fully paid and any required insurance provided. Any license issued or renewed upon payment by a check shall be deemed conditionally issued until the city has received final credit to its bank account in the full amount of such license fees. In the event the check tendered by the licensee is dishonored or refused by any financial institution, such provisionally issued license shall be deemed void as of the date of the check's dishonor or refusal by the financial institution.

(2) The issuance of a license issued under this article shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(Code 2015, § 5.03; Ord. of 1-27-1986; Ord. of 6-29-1998; Ord. of 8-12-2013)

Sec. 6-22. Background checks.

(a) *Applicants for city licenses.* The intent and purpose of this section is to establish regulations that will allow law enforcement access to state's computerized criminal history information for specified noncriminal purposes of licensing background checks.

(b) *Criminal history license background investigation.*

(1) The city department of public safety is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for the following licenses or permits within the city:

a. Liquor;

b. Gambling;

c. Pawn;

d. Explosives;

e. Peddler;

f. Carnival;

g. Parade;

h. Tobacco;

i. Taxicab;

j. Transportation network companies;

k. Mobile food units.

(2) In conducting the criminal history background investigation in order to screen license applicants, the city department of public safety is authorized to access data maintained in the state bureau of criminal apprehensions (BCA) computerized criminal history information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the city department of public safety under the care and custody of the department director or their designee. A summary of the results of the computerized criminal history data may be released by the city department of public safety to the city clerk, including the city council, the city manager or other city staff involved in the license approval process.

(3) Before the investigation is undertaken, the applicant must authorize the city department of public safety by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S.A. ch. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the city rejects the applicants request on this basis, the city shall notify the applicant in writing of the following:

a. The grounds and reasons for the denial.

b. The applicant complaint and grievance procedure set forth in M.S.A. § 364.06.

c. The earliest date that the applicant may reapply for the license.

d. That all competent evidence of rehabilitation will be considered upon reapplication.

(Code 2015, § 5.04; Ord. of 8-12-2013; Ord. of 1-13-2014; Ord. No. 16-0222-3, § 5.04, 2-22-2016; Ord. No. 17-0814-5, § 5.04, 8-14-2017; Ord. No. 18-0514-6, § 5.04, 5-14-2018)

Secs. 6-23—6-48. Reserved.

ARTICLE III. SPECIFIC BUSINESS OPERATIONS

DIVISION 1. GENERALLY

Sec. 6-49. Refuse haulers.

(a) *License required.* It is unlawful for any person to, by the use of any vehicle, collect and remove, haul or transport any garbage, refuse or debris from any premises without first having obtained a refuse hauler license from the city.

(b) *License term.* The annual refuse hauler license shall expire April 30 each year.

(c) *Exception.* Any person removing rubbish or waste matter only, as defined in section 11-32(a), from a residential premises owned or occupied by such person shall be exempted from the provisions of this section, provided that any rubbish or waste matter so removed shall be transported

completely covered or enclosed in such a manner as to eliminate the possibility of any spillage of such rubbish or waste matter. The provisions of this subsection shall not be construed so as to permit or allow any party other than a party licensed pursuant to the provisions of this section to remove garbage and swill as defined in section 11-32(a), from any premises.

(d) *Hauler regulations.* Each refuse hauler licensee shall utilize, for the purpose of transporting garbage, refuse and debris, only leakproof vehicles and containers, loaded or packed in such a manner as to eliminate the possibility of any spillage of such refuse or debris, and shall unload, dispose of or dump all garbage and debris collected or transported by such licensee only at sites approved by the appropriate state agency and in conformity with state law.
(Code 2015, § 5.40; Ord. of 6-26-1978; Ord. of 5-29-1979; Ord. of 10-12-1992; Ord. of 10-13-2003)

Secs. 6-50—6-71. Reserved.

DIVISION 2. CARNIVALS

Sec. 6-72. Definitions.

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

Carnival means any of the following activities and any combination or aggregation thereof which is open to the public for patronage:

(1) A professional circus, whether or not sponsored by a nonprofit organization;

(2) A circus staged by a nonprofit organization with volunteer performers if held under or within a tent or with wild or exotic animals; and

(3) An event or attraction involving five or more motorized rides or five or more non-coin-operated games of skill.

Circus means an exhibition comprised of various acts of physical skills and daring and performances by trained wild or exotic animals.
(Code 2015, § 5.33(1); Ord. of 6-26-1978; Ord. of 10-28-1985, § 2; Ord. of 8-12-2013)

Sec. 6-73. License required.

It is unlawful for any person to conduct, hold or operate, or participate or permit the conducting, holding or operation of any carnival unless the manager, owner or proprietor of the carnival shall first have procured a license therefor from the city.
(Code 2015, § 5.33(2); Ord. of 6-26-1978; Ord. of 10-28-1985, § 2; Ord. of 8-12-2013)

Sec. 6-74. Gambling prohibited.

Except as may be permitted by state statute, it is unlawful for any person to operate, or cause or permit to be operated, any gambling device, lottery, number or paddle wheel, number board, punchboard, or other game of chance in connection with any carnival.
(Code 2015, § 5.33(4); Ord. of 6-26-1978; Ord. of 10-28-1985, § 2; Ord. of 8-12-2013)

Sec. 6-75. Application.

In addition to the information required by section 6-20, the applicant for a carnival license shall make a written statement setting forth:

(1) The proposed hours of operation.

(2) Barriers used, if any, to delineate the area in which the carnival will be held.

(3) Power sources and their placement.

(4) Location of lighting.

(5) Placement and protection of power cables.

(6) Sanitary facilities provided, their location and number.

(7) A description of the area to be licensed, including a drawing of the area which shall include a detailed scale description of the barriers that will be used, method of seating (if any), ingress and egress arrangements, and arrangements provided. The drawings required hereunder shall include the dimensions of the area, barriers, equipment, rides, games, enclosures, tents, tables, seating and aisles, and shall generally be drawn proportionately to scale.

(Code 2015, § 5.33(5); Ord. of 6-26-1978; Ord. of 10-28-1985, § 2; Ord. of 8-12-2013)

Sec. 6-76. Review.

The application shall be submitted to designated public safety officials and the building inspector for review and comment before its approval. The city staff shall review the suitability of the proposed carnival in light of applicable fire, building and life safety codes, past performance of the proposed licensee in maintaining order at carnivals, past compliance with applicable laws, the adequacy of the plan to provide for the safety of persons attending the carnival, adequacy of lighting, zoning, safety of seating arrangements, suitability of ingress and egress arrangements and impact on surrounding area.

(Code 2015, § 5.33(6); Ord. of 6-26-1978; Ord. of 10-28-1985, § 2; Ord. of 8-12-2013)

Sec. 6-77. Conditions.

Conditions may be imposed upon any license granted pursuant to this division relating to the matters set forth in section 6-76.

(Code 2015, § 5.33(7); Ord. of 6-26-1978; Ord. of 10-28-1985, § 2; Ord. of 8-12-2013)

Sec. 6-78. Issuance.

(a) Carnival licenses shall be issued by the city clerk upon approval of the application by the director of public safety, fire marshal and building inspector, with such conditions imposed upon the license as may be specified by the police department, building inspector or fire marshal.

(b) No carnival license shall be issued until the applicant obtains and files with the city clerk evidence of, and the licensee shall at all times during which such license shall be effective maintain, liability insurance in the amount of $200,000.00 for each person and $600,000.00 for each accident. (Code 2015, § 5.33(8); Ord. of 6-26-1978; Ord. of 10-28-1985, § 2; Ord. of 8-12-2013)

Secs. 6-79—6-103. Reserved.

DIVISION 3. TOBACCO

Sec. 6-104. Purpose and intent.

(a) The city recognizes that:

(1) Many persons under the age of 21 years purchase or otherwise obtain and use tobacco products, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery devices and the sales, possession, and use by such persons are violations of both state and federal laws.

(2) Studies, which the city accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and

(3) Smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government.

(b) This division is intended to:

(1) Regulate the sale, possession and use of tobacco, tobacco products, tobacco-related devices, electronic delivery devices and nicotine or lobelia delivery devices for the purpose of enforcing and furthering existing laws;

(2) Protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices, electronic delivery devices and nicotine or lobelia delivery devices; and

(3) Further the official public policy of the state in regard to preventing youth people from starting to smoke as stated in M.S.A. § 144.391.

(Code 2015, § 5.35(1); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. No. 19-0513-2, § 5.35(1), 5-13-2019)

Sec. 6-105. Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly-accepted definitions. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cigar means any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in M.S.A. § 297F.01, subd. 3.

Compliance checks means the system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this division. Compliance checks shall involve the use of persons under the age of 21 years who attempt to purchase licensed products for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to licensed products.

Electronic delivery devices means any product containing or delivering nicotine, lobelia, or any other substances, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. The term "electronic delivery devices" includes, but is not limited to, devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipes, vape pens, modes, tank systems, or under any other product name or descriptor. The term "electronic delivery devices" includes any component part of a product, whether or not marketed or sold separately. The term "electronic delivery devices" excludes any product that has been approved or certified by the Federal Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

Indoor area means all space between a floor and a ceiling that is bounded by walls, doorways or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door or other physical barrier, whether temporary or permanent.

Licensed products collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

Loosies means refers to a single or individually packaged licensed product that has been removed from its packaging and sold individually. The term "loosies" does not include individual cigars with a retail price, before any sales tax, of more than $2.00 per cigar.

Moveable place of business means any form of business operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Nicotine or lobelia delivery devices means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product that is not tobacco as defined in this section. The term "nicotine or lobelia delivery devices" does not include any product that has been approved or otherwise certified for legal sale by the Federal Food and Drug Administration as a tobacco-cessation product, a tobacco-dependence product or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Retail establishment means any place of business where licensed products are available for sale to the general public. The term "retail establishment" shall include, but not be limited to, grocery stores, convenience stores, restaurants and drug stores.

Sale means any transfer of goods for money, trade, barter or other consideration.

Self-servicing merchandising means open displays of licensed products in any manner where any person shall have access to the licensed products without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the licensed products between the customer and the licensee or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. The term "smoking" also includes carrying or using an activated electronic delivery device.

Tobacco or *tobacco products* includes cigarettes and any product containing, made or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, or any component, part or accessory of a tobacco product, including, but not limited to, cigars; cheroots; stogies; perigee; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour, Cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps; clippings; cuttings and sweeping of tobacco; and other kinds and forms of tobacco. The term "tobacco" or "tobacco products" excludes any product that has been approved by the Federal Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Tobacco-related devices includes any tobacco product as well as cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of aerosol or vapor of tobacco or tobacco products. The term "tobacco-related devices" includes components of tobacco-related devices which may be marketed or sold separately. Tobacco-related devices may or may not contain tobacco.

Vending machine means any mechanical, electrical or electronic or other type of device which dispenses licensed products upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the licensed product.
(Code 2015, § 5.35(2); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. of 1-13-2014; Ord. No. 19-0513-2, § 5.35(2), 5-13-2019)

Sec. 6-106. License required.

(a) *Required for sale.* No person shall sell or offer to sell any licensed product without first having obtained a license to do so from the city.

(b) *Age requirement.* No license shall be issued for the sale of licensed products to a person under the age of 21 years.

(c) *Location requirement.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this section.

(d) *Smoking prohibited.* Smoking shall not be permitted and no person shall smoke within the indoor area of any retail establishment licensed under this section. Smoking for the purpose of sampling licensed products is prohibited. This includes the sampling of hookah and electronic delivery devices, e-juices and e-liquids.

(e) *Age verification.* Licensees must verify by means of government-issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30 years. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.

(f) *Signage.* Notice of the legal sales age and the age verification requirement shall be posted at each location where tobacco, tobacco-related products or tobacco-related devices, electronic delivery devices or nicotine or lobelia delivery devices are offered for sale. The required signage, which will be provided to the licensee by the city, shall be posted in a manner so that it is clearly visible to anyone who is considering making a purchase.
(Code 2015, § 5.35(3); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. No. 19-0513-2, § 5.35(3), 5-13-2019)

Sec. 6-107. Basis for denial of license.

(a) The following shall constitute a basis for denial of a license:

(1) The applicant is under the age of 21 years.

(2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance, provision or other regulation relating to purchase of licensed products.

(3) The applicant has had a license to sell licensed products revoked within the preceding 12 months of the date of the application.

(4) The applicant fails to provide any information required on the application or provides false or misleading information.

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.

(b) Except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.

(c) If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.
(Code 2015, § 5.35(5); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. No. 19-0513-2, § 5.35(5), 5-13-2019)

Sec. 6-108. Prohibited sales.

It shall be a violation of this section for any person to sell or offer to sell any licensed products:

(1) To any person under the age of 21 years.

(2) By means of any type of vending machine.

(3) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the licensed product and whereby there is not a physical exchange of the licensed product between the licensee or the licensee's employee and the customer. All licensed products must be stored behind the sales counter, in another area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

(4) By means of loosies as defined in section 6-105.

(5) Containing opium, morphine, jimsonweed, belladonna, strychnos, cocaine, marijuana or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.

(6) By any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision or other regulation.

(Code 2015, § 5.35(6); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. No. 19-0513-2, § 5.35(6), 5-13-2019)

Sec. 6-109. Responsibility.

All licensees under this division shall be responsible for the actions of their employees in regard to the sale of licensed products on the licensed premises and the sale of an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this division, chapter, or state or federal law or regulation.

(Code 2015, § 5.35(7); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. No. 19-0513-2, § 5.35(7), 5-13-2019)

Sec. 6-110. Compliance checks and inspections.

All licensed premises shall be open to inspection by the city department of public safety or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with persons over the age of 15 years, but less than 21 years to enter the licensed premises to attempt to purchase licensed products. Prior written consent from a parent or guardian is required for any person under the age of 18 years who participates in a compliance check. Persons used for the purpose of compliance checks shall be supervised by city designated law city inspectors or other designated city personnel. No person used in compliance checks shall attempt to use a false identification misrepresenting the persons age, and all persons lawfully engaged in a compliance check shall answer all questions about the person's age asked by the licensee or their employee and shall produce any identification, if any

exists, for which they are asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law.
(Code 2015, § 5.35(8); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. No. 19-0513-2, § 5.35(8), 5-13-2019)

Sec. 6-111. Other prohibited acts.

Unless otherwise provided, the following acts shall be a violation of this division:

(1) It shall be a violation of this division for any person aged 21 years or older to sell or otherwise provide any licensed product to any person under the age of 21 years. It shall also be a violation of this division for any person aged 21 years or older to purchase or otherwise obtain any licensed product on behalf of a person under the age of 21 years.

(2) It shall be a violation for any person aged 21 years or older to coerce or attempt to coerce a person under the age of 21 years to purchase or otherwise obtain or use any licensed product. This subsection shall not apply to persons lawfully involved in a compliance check.

(3) It shall be a violation of this division for any person under the age of 21 years to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older that the actual age of the person.

(Code 2015, § 5.35(9); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. No. 19-0513-2, § 5.35(9), 5-13-2019)

Sec. 6-112. Exceptions and defenses.

(a) Nothing in this division shall prevent the providing of tobacco or tobacco products and tobacco-related devices to a person under the age of 21 years as part of a lawfully recognized religious, spiritual or cultural ceremony.

(b) A distribution facility in the form of a retail store that sells and distributes medical cannabis and medical cannabis products as defined, authorized, and regulated by M.S.A. §§ 152.22—152.37, and Minn. R. ch. 4770, is an exception to this division.

(c) It shall be an affirmative defense to the violation of this division for a person to have reasonably relied on proof of age described by state law.
(Code 2015, § 5.35(10); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. No. 19-0513-2, § 5.35(10), 5-13-2019; Ord. No. O-2021-0726-3, 7-26-2021)

Sec. 6-113. Violations and penalty.

(a) *Generally.* Violations of these provisions may result in civil penalties being imposed as adopted by resolution to the council. Conviction of a violation in a court of law is not required for the imposition of a civil penalty. Civil penalties may be appealed following the city's administrative hearing procedure (chapter 2, article III, division 2).

(b) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(c) *False identification.* Persons under 21 years of age who use false identification to purchase or attempt to purchase tobacco-related products shall be referred to the city or county attorney's office for diversion or prosecution.

(d) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this division per M.S.A. §§ 609.685 and 461.12.
(Code 2015, § 5.35(11); Ord. of 6-26-1978; Ord. of 11-22-1982; Ord. of 5-26-1998; Ord. of 8-12-2013; Ord. No. 19-0513-2, § 5.35(11), 5-13-2019)

Secs. 6-114—6-141. Reserved.

DIVISION 4. PEDDLERS, SOLICITORS AND SIMILAR VENDORS

Sec. 6-142. Definitions.

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

Peddler means any person with no fixed place of business who goes from house to house, from place to place, or from street to street, carrying or transporting any goods, wares or merchandise and selling or offering or exposing for sale such goods, wares or merchandise.

Solicitor means any person who goes from house to house, from place to place, or from street to street soliciting or attempting to take orders for the sale of goods, wares, merchandise, subscriptions or services for future delivery.

Transient merchant means any person who engages temporarily in the business of selling and delivering any goods, wares or merchandise within the city and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot or vehicle.

Vendor means any person with a fixed, permanent place of business in the city who temporarily offers any goods, wares, merchandise, food, or services at a location away from the fixed place of business.
(Code 2015, § 5.36(1); Ord. of 1-26-2004; Ord. No. 16-0125-1, § 5.36(1), 1-25-2016)

Sec. 6-143. License required.

No peddler, solicitor or transient merchant shall sell or offer for sale any goods, wares, merchandise, subscriptions or services within the city without first having obtained a license for such sale or offer from the city.
(Code 2015, § 5.36(2); Ord. of 1-26-2004; Ord. No. 16-0125-1, § 5.36(2), 1-25-2016)

Sec. 6-144. Separate license.

Each peddler, solicitor or transient merchant shall secure a separate license. No license shall be transferable.
(Code 2015, § 5.36(4); Ord. of 1-26-2004; Ord. No. 16-0125-1, § 5.36(4), 1-25-2016)

Sec. 6-145. Display of license.

Each peddler, solicitor and transient merchant license shall be carried by the licensee while engaged in the licensed activity and shall display such license to any party upon request. Each peddler, solicitor, or transient merchant shall conspicuously display an identification card of the license holders' names and organization conducting or sponsoring the activity while engaging in the licensed activity.
(Code 2015, § 5.36(5); Ord. of 1-26-2004; Ord. No. 16-0125-1, § 5.36(5), 1-25-2016)

Sec. 6-146. Registration permit required for vendors.

No vendor shall sell or offer for sale any goods, wares, merchandise, food, subscriptions or services within the city without first having registered with the city.

(1) *Registration fee.* There shall be no fee for registration of a vendor; however, a nonrefundable fee, as provided in the city fee schedule per annual registration, shall be paid to cover the cost of an investigation fee of the facts stated on the application.

(2) *Separate registration.* Each vendor shall register separately with the city. No registration permit shall be transferable.

(3) *Display of registration permit.* Each vendor registration permit shall be carried by the registrant while engaged in the registered activity and shall display such registration permit to any party upon request. Each vendor shall conspicuously display an identification card of the registration permit holder's names and organization conducting or sponsoring the activity while engaging in the registered activity.

(Code 2015, § 5.36(6); Ord. of 1-26-2004; Ord. No. 16-0125-1, § 5.36(6), 1-25-2016)

Sec. 6-147. Practices prohibited.

(a) It is unlawful for any person to engage in peddling, solicitation transient merchandising, or vending for any unlawful business or organizational purpose or unlawful activity.

(b) It is unlawful for any peddler, solicitor, transient merchant, or vendor to commit any conduct constituting harassment, nuisance, including unreasonable loud noises or amplifying devices, theft, deceit, or menacing, troublesome or otherwise unlawful activities.

(c) It is unlawful for any peddler, solicitor, transient merchant, or vendor to enter upon the property of another that has conspicuously posted a warning prohibiting door-to-door sales, solicitations, or offers for service.

(d) It is unlawful for any peddler, solicitor, transient merchant, or vendor to refuse to leave any premises when requested by the owner, lessee, or person in charge thereof.

(e) It is unlawful for any peddler, solicitor or transient merchant, or vendor to conduct any sales activity between 8:00 p.m. and 8:00 a.m. without written permission from the city.

(f) It is unlawful to make any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, transient merchant, or vendor shall claim to have the endorsement of the city based on the city issuing a license to that person.

(g) It is unlawful for any person to solicit any donation or contribution or sell or attempt to sell any item, on any street, in any public place, or while going from house to house, from place to place, or from street to street purportedly on behalf of, or under the sponsorship of, any charitable, religious, social, patriotic or civic club or organization which does not, in fact, exist.
(Code 2015, § 5.36(7); Ord. of 1-26-2004; Ord. of 8-12-2013; Ord. No. 16-0125-1, § 5.36(7), 1-25-2016)

Sec. 6-148. Exemptions.

This division shall not apply to any sale pursuant to any court order; to any auction sale; to any sale at wholesale to a retail dealer; or to the sale of farm or garden products; to any uninvited initiatory call made by any vendor of milk, groceries, bakery products, ice or other perishable commodities for the purpose of establishing a regular route delivery service to regular customers; nor to any solicitation for or any sale on behalf of any charitable, religious, fraternal or civic organization.
(Code 2015, § 5.36(8); Ord. of 6-26-1978; Ord. of 1-26-2004; Ord. of 8-12-2013; Ord. No. 16-0125-1, § 5.36(8), 1-25-2016)

Sec. 6-149. License refusal.

The city shall refuse to license any person for any of the following reasons:

(1) The conviction of the applicant for a violation under this chapter within three years immediately preceding the filing of the application.

(2) The conviction of the applicant of a violation under any local, state or federal law, which violation involved acts which, if they occurred in-state, would constitute fraud, misrepresentation, embezzlement, burglary, possession of burglary or theft tools, criminal sexual conduct, robbery, kidnapping, false imprisonment or assault and which conviction occurred within five years immediately preceding the filing of the application.

(3) The failure or refusal of the applicant to complete any part or all of the appropriate application form, or for submitting false or inaccurate information on the application form.
(Code 2015, § 5.36(9); Ord. of 1-26-2004; Ord. of 10-10-2005; Ord. of 8-12-2013; Ord. No. 16-0125-1, § 5.36(9), 1-25-2016)

Sec. 6-150. Revocation of license.

Notwithstanding section 6-21(i), the city shall immediately revoke any license for conduct, by the licensee, which is in violation of any of the provisions of this division. Revocation can be appealed to a hearing officer per the administrative hearing procedure.
(Code 2015, § 5.36(10); Ord. of 1-26-2004; Ord. of 8-12-2013; Ord. No. 16-0125-1, § 5.36(10), 1-25-2016)

Sec. 6-151. Restricted areas.

(a) Transient merchants shall only be permitted in commercial districts as defined by chapter 10. Transient merchants shall not be allowed on commercially zoned property that is located in a gateway overlay district as restricted in chapter 10, article V, division 9.

(b) No peddler, solicitor, transient merchant or vendor shall sell or offer for sale any goods, wares, merchandise, or services within the gateway overlay district, as defined in chapter 10, article V, division 9. This restriction shall not apply to seasonal sales as allowed in section 10-1497(6).

(c) No peddler, solicitor, transient merchant, or vendor may sell or offer for sale any goods, wares, merchandise or services in any public park or public right-of-way.
(Code 2015, § 5.36(11); Ord. of 1-26-2004; Ord. No. 16-0125-1, § 5.36(11), 1-25-2016)

Sec. 6-152. Setbacks.

Areas used for sale and display shall be set back in conformance with the yard and setback areas required for the property in chapter 10.
(Code 2015, § 5.36(12); Ord. of 1-26-2004; Ord. No. 16-0125-1, § 5.36(12), 1-25-2016)

Sec. 6-153. Parking.

Areas used for sale and display shall not exceed 20 percent of the area of the parcel containing buildings or use more than 20 percent of the required parking for the principal use of property according to chapter 10.
(Code 2015, § 5.36(13); Ord. of 1-26-2004; Ord. No. 16-0125-1, § 5.36(13), 1-25-2016)

Sec. 6-154. Days of operation.

Property owners, peddlers, solicitors and transient merchant organizations conducting or sponsoring the activity shall be allowed no more than two such 30-day periods of licensed activity in any 12-month period. This restriction shall not apply to seasonal sales as allowed in section 10-1497(6) or vendors.
(Code 2015, § 5.36(14); Ord. of 1-26-2004; Ord. No. 16-0125-1, § 5.36(14), 1-25-2016)

Secs. 6-155—6-178. Reserved.

DIVISION 5. TRANSPORTATION NETWORK COMPANIES

Sec. 6-179. Definitions.

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

Active on the TNC dispatch system means, but is not limited to, when the transportation network company driver is logged onto the transportation network company (TNC) application dispatch system showing that the transportation network company driver is available to pick up passengers; when a passenger is in the vehicle; or when the transportation network company driver has accepted a ride request and is in route to provide transportation services to a passenger.

Compensation means remuneration or anything of economic value that is provided, promised, or donated primarily in exchange for services rendered. The term "compensation" includes, but is not limited to, voluntary donations, fee sharing between a taxicab or transportation network company and a transportation network company driver, and passenger, advertisement of a taxicab service company or transportation network company services.

Digital network means any online-enabled application, website, or system offered or used by a transportation network company that enables a prearranged ride with a transportation network company driver.

Licensee or *transportation network licensee* means the holder of, or a person that is required to hold, a TNC license issued pursuant to this division.

Operation of a transportation network vehicle or *operating a transportation network vehicle* means offering, making available, or using a transportation network vehicle to provide a transportation network service, including any time when a transportation network company driver is logged onto the TNC's internet-enabled application or digital platform showing that the transportation network company driver is available to pick up passengers; when a passenger is in the vehicle; when the TNC's records show that the vehicle is in route; or when the transportation network company driver has accepted a prearranged ride and is in route to provide a transportation network service to a passenger.

Passenger means an individual being transported for compensation in a personal vehicle.

Personal vehicle means a vehicle that is used by a transportation network company driver and is:

(1) Owned, leased, or otherwise authorized for use by the driver; and

(2) Not a taxicab, limousine, or similar for-hire vehicle.

Prearranged ride means transportation provided by a transportation network company driver to a transportation network company rider, beginning at the time a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company and ending at the time the last requesting rider departs from the driver's personal vehicle. The term "prearranged ride" does not include:

(1) A shared expense carpool or vanpool arrangement or service; or

(2) Transportation provided using a taxicab, limousine, or similar for-hire vehicle.

Rideshare means the traveling of two or more persons by any mode of private passenger vehicle, including, but not limited to, carpooling, vanpooling, or bus pooling to any location incidental to another purpose of the driver for which compensation is neither accepted, collected, encouraged, promoted, or requested, and for which the primary purpose of the driver cannot be profit or revenue based.

Solicit means an appeal by words or gestures for immediate patronage of a transportation network vehicle by a transportation network driver upon the public way attempting to direct people to a transportation network vehicle that is parked, stopped, standing or moving upon the public way.

Strike refers to a penalty issued for failing to comply with licensing requirements, city ordinance or state statute.

TNC means a transportation network company.

TNC license means a license issued to a transportation network company pursuant to this division.

Transportation network company means a corporation, partnership, sole proprietorship, or other entity operating in the state that uses a digital network to connect a transportation network company rider to a transportation network company driver for a prearranged ride. A transportation network company shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract. The term "transportation network company" does not include an entity arranging nonemergency medical transportation under a contract with the state or a managed care organization for individuals qualifying for Medicaid or Medicare.

Transportation network company driver means a for-hire driver affiliated with and accepting trips requested through the internet-based transportation application system of a licensed transportation network company, while operating a personal, TNC endorsed vehicle. A TNC endorsed driver is someone who has been screened and approved by a licensee, and who:

(1) Receives connections to potential transportation network company riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(2) Uses a personal vehicle to offer or provide a prearranged ride to a transportation network company rider on connection with the rider through a digital network controlled by the transportation network company in exchange for compensation or payment of a fee.

Transportation network company representative means the person that a transportation network company has authorized to:

(1) File applications, with the city clerk on behalf of the TNC;

(2) Receive and accept all correspondence and notices from the city pertaining to the TNC; and

(3) Forward any correspondence, notices or legal process received by the TNC and intended for a TNC endorsed driver of the TNC.

Transportation network company rider means a passenger who uses a transportation network company's digital network to connect with a transportation network company driver who provides a prearranged ride to the individual in the driver's personal vehicle between points chosen by the individual.

Transportation network service means a prearranged ride offered or provided for compensation using an internet-enabled application or digital platform to connect potential passengers with transportation network drivers. The term "transportation network service" does not include a ridesharing arrangement as that term is defined in M.S.A. § 169.011, subd. 65.
(Code 2015, § 5.37(1); Ord. No. 17-0814-5, § 5.37(1), 8-14-2017)

Sec. 6-180. License required.

(a) No person shall operate a transportation network company in the city without a TNC license issued pursuant to this division.

(b) No vehicle shall be used as a transportation network vehicle in the city except by an approved transportation network company driver affiliated with a transportation network company that holds a TNC license pursuant to this division. The vehicle shall at all times be in compliance with this division when it is being used by a driver active on the TNC network.

(c) A personal vehicle operated by a transportation network company driver affiliated with a TNC not licensed by the city may come into the city to discharge passengers whose trip originated outside of the city.
(Code 2015, § 5.37(2); Ord. No. 17-0814-5, § 5.37(2), 8-14-2017)

Sec. 6-181. License application.

(a) Application for the issuance or renewal of a TNC license shall be made in writing to the city clerk on a form provided by the city clerk and signed and sworn to by the applicant or, if the applicant is a corporation, limited liability company, or partnership, by its authorized agent. Each application, in addition to any other information that the city clerk may reasonably require in connection with issuance or renewal of a license, shall contain, at a minimum, the information required by this section.

(b) If the license applicant is an individual, the following information must be provided:

(1) The individual's full name, social security number, residence address, business address, business e-mail address and business telephone number; and

(2) Proof that the applicant is at least 18 years of age.

(c) If the license applicant is a corporation, the following information must be provided:

(1) The corporate name, business address and telephone number of the applicant;

(2) The date and state of incorporation;

(3) The full names, titles, dates of birth, addresses, e-mail addresses and telephone numbers of its corporate officers, and of those stockholders who own 25 percent or more of its voting shares, and of its authorized agent;

(4) Proof that all corporate officers are at least 18 years of age; and

(5) Proof that the corporation is in good standing under state law.

(d) If the license applicant is a partnership or limited liability company, the following information must be provided:

(1) The name, business address or principal office address and telephone number of the applicant;

(2) The full names, dates of birth, addresses, e-mail addresses and telephone numbers of the three members who own the highest percentage interests in such partnership or limited liability company;

(3) The general partner of a partnership;

(4) The managing member of a limited liability company;

(5) The applicant's authorized agent;

(6) Any other member who owns a 25 percent or more interest therein;

(7) The full name, address, e-mail address and telephone number of a person authorized to receive notices issued pursuant to this division; and

(8) Proof that all persons, partners, managers, managing members and members, as applicable, are at least 18 years of age.

(Code 2015, § 5.37(4); Ord. No. 17-0814-5, § 5.37(4), 8-14-2017)

Sec. 6-182. Qualifications.

(a) In order to qualify for a TNC license, whether upon initial application or upon application for renewal of a license, the applicant must be able to show the following:

(1) An applicant shall be in compliance with all applicable city, state, and federal laws;

(2) With respect to any corporate or limited liability company applicant, the company shall be organized, registered, or qualified to do business under state law;

(3) The applicant shall be the true beneficial owner of the TNC to be licensed. The full legal names and addresses of all corporate officers and persons holding a 25 percent or greater beneficial interest in the business shall be provided on the application, along with a statement that no corporate officer has any felony convictions in the past five years, nor any gross misdemeanor or misdemeanor convictions involving the use of force, possession or sale of a controlled substance, prostitution, or indecent conduct. The city clerk may grant an exception to this subsection upon evidence that the offense is not related to the operation of a TNC;

(4) The applicant's ability to provide lawful, safe, suitable and comfortable service and the applicant's ability to engage qualified transportation network company drivers and eligible vehicles;

(5) The applicant's ability to maintain mandated insurance for the payment of personal injury, death, property damage, and other claims associated with the operation of a TNC; and

(6) The applicant's financial ability to pay all judgments and awards which may be rendered for any cause arising out of the operation of a transportation network provider business.

(b) No applicant is eligible for a license if a TNC license held by the applicant, or by any officer or director of a corporate applicant or partner of a partnership applicant, has been revoked within the previous five years, or if the applicant, or any officer or director of a corporate applicant or partner of a partnership applicant, within the five years immediately preceding the date of his application, has been either convicted, or in custody, under parole or under any other noncustodial supervision resulting from a conviction in a court of any jurisdiction for the commission of any felony or its equivalent under federal or other jurisdictional law.
(Code 2015, § 5.37(5); Ord. No. 17-0814-5, § 5.37(5), 8-14-2017)

Sec. 6-183. Investigation and license issuance.

Upon receipt of an application for the issuance or renewal of a TNC license, the designated authority may investigate the application for compliance with all applicable provisions of this division, including, but not limited to, the applicant's compliance or ability to comply with the license qualification requirements specified in this division.
(Code 2015, § 5.37(6); Ord. No. 17-0814-5, § 5.37(6), 8-14-2017)

Sec. 6-184. Insurance required.

(a) Every licensee and transportation network company driver shall comply with all applicable insurance requirements mandated by state and city laws including an obligation to cover no-fault personal injury protection (PIP) where required by M.S.A. § 65B.44 pursuant to the priority requirements of M.S.A. § 65B.47. A transportation network company and transportation network company driver, while logged into a transportation network company's digital network, are deemed to be in the business of transportation persons for the purposes of M.S.A. § 65B.47, subd. 1, to the minimum required of a private passenger automobile in the state.

(b) A transportation network company shall file with the city clerk documentation in the form of a certificate of insurance evidencing that the transportation network company or the transportation network company driver has secured primary liability insurance coverage for each driver participating in the transportation network for incidents involving the transportation network company driver during a prearranged ride.

(1) A TNC and a TNC driver shall comply with the requirements of M.S.A. ch. 65B.

(2) The responsibility is placed on a transportation network company driver to purchase insurance. The transportation network company shall verify that the transportation network company driver has purchased an insurance policy under subsection (a) of this section and

shall have a policy in place providing coverage beginning with the first dollar of claims in any instance where the transportation network company driver's policy required under this section has lapsed or otherwise ceased to exist.

(3) An insurance policy required by this section may be placed with an insurer duly licensed to provide insurance in the state under M.S.A. § 60A.07 or with a surplus lines insurer authorized under M.S.A. § 60A.07 or 60A.196.

(4) In a claims coverage investigation, a transportation network company shall cooperate with a liability insurer that also insures the transportation network company driver's personal vehicle, including the provision of relevant dates and times during which an incident occurred that involved the transportation network company driver while the driver was logged into a transportation network company's digital network.

(5) Nothing in this section modifies or abrogates any otherwise applicable insurance requirements set forth in M.S.A. § 65B.49.

(6) The existence of the insurance required by this section shall be disclosed on the transportation network company's website, and no contractual hold harmless required in the company's terms of service shall be used to evade the insurance requirements of this section.

(7) No TNC license shall be issued unless the applicant first provides proof of the insurance policies required in this section. An applicant may redact confidential information regarding premium paid for such policies.

(8) Any TNC driver shall provide to any authorized law city inspector or official city inspector, in addition to any applicable insurance, digital or physical proof of the insurance policies required by this section in the form of a certificate of insurance.

(Code 2015, § 5.37(7); Ord. No. 17-0814-5, § 5.37(7), 8-14-2017)

Sec. 6-185. Vehicle ownership and standards.

(a) No licensee shall own, provide financing for the obtaining, leasing, or ownership of, or have a beneficial interest in transportation network vehicles unless approved by the city clerk.

(b) In addition to all other applicable legal requirements, it shall be unlawful for any person to operate or cause to be operated any transportation network vehicle unless such vehicle:

(1) Has a manufacturer's rated seating capacity of seven persons or less, including the transportation network driver;

(2) Has at least four doors and meets applicable Federal Motor Vehicle Safety Standards for vehicles of its size, type and proposed use; and

(3) Is a sedan or light-duty vehicle, including a minivan, sport utility vehicle, pickup truck, hatchback or convertible.

(c) The licensee and the TNC driver may be jointly cited if the licensee permits the TNC driver to use a vehicle that does not meet the requirements for a transportation network vehicle.

(Code 2015, § 5.37(8); Ord. No. 17-0814-5, § 5.37(8), 8-14-2017)

Sec. 6-186. Vehicle inspections.

A transportation network company shall solicit feedback on vehicle quality after each trip. The TNC must implement a policy of evaluating and investigating negative feedback received about the condition of a vehicle.
(Code 2015, § 5.37(9); Ord. No. 17-0814-5, § 5.37(9), 8-14-2017)

Sec. 6-187. Distinctive trade dress.

Transportation network company vehicles shall display a consistent and distinctive signage or emblem at all times while the driver is active on the TNC's digital network. The signage or emblem must indicate the business name or logo and be visibly displayed on the front and rear windshields of the TNC approved vehicle. Licensees shall file an illustration of their distinctive trade dress with the city clerk.
(Code 2015, § 5.37(10); Ord. No. 17-0814-5, § 5.37(10), 8-14-2017)

Sec. 6-188. Commercial advertisements prohibited.

No commercial advertisements or lighting, not installed by the original equipment manufacturer, shall be displayed on the exterior of any transportation network vehicle unless it is a component of the approved trade dress.
(Code 2015, § 5.37(11); Ord. No. 17-0814-5, § 5.37(11), 8-14-2017)

Sec. 6-189. Driver requirements.

(a) No licensee shall engage any person as a transportation network driver unless the person:

(1) Possesses a valid driver's license;

(2) Is a citizen of the United States or an alien admitted for permanent residence, or who has otherwise obtained work authorization from the federal citizenship and immigration services;

(3) Is a minimum of 18 years of age;

(4) Does not have a physical or mental disability that would prevent the TNC approved driver from safely operating a TNC approved vehicle and performing the normal duties of a TNC driver;

(5) Is not under sentence or has been discharged from sentence for a felony conviction within the previous five years for the following offenses:

a. Murder (M.S.A. §§ 609.185 to 609.195);

b. Manslaughter (M.S.A. §§ 609.20 to 609.205);

c. Criminal vehicular homicide and injury (M.S.A. §§ 609.2111 to 609.2114);

d. Assault I through III (M.S.A. §§ 609.221 to 609.223);

e. Criminal sexual conduct (M.S.A. §§ 609.342 to 609.3451);

f. Indecent conduct (M.S.A. § 617.23, subd. 2 or 3); or

g. Any violation of the Controlled Substance Law (M.S.A. ch. 152 et seq.) which is punishable by a maximum sentence of 15 years or more; as allowed under M.S.A. § 364.09;

(6) Is not under sentence or has been discharged from sentence for any felony conviction within the previous five years, nor under sentence or has been discharged from sentence for any nontraffic gross misdemeanor or nontraffic misdemeanor conviction within the previous three years. The license inspector may grant, pursuant to M.S.A. § 364.03, an exception to this clause upon evidence that either the offense is not related to the occupation of TNC driver, or upon evidence of rehabilitation;

(7) Shall have a driving record meeting the following standards:

a. Not be under sentence or have been discharged from sentence within the previous five years for any of the following offenses involving injury or death and not be under sentence or have been discharged from sentence within the previous three years for any of the following offenses not involving injury or death:

1. Leaving the scene of an accident under M.S.A. §§ 609.2111 to 609.2114 or M.S.A. § 169.09, or similar state law or law of another state, as amended;

2. Driving while impaired under M.S.A. § 169A.20, subd. 1, or similar state law or law of another state, as amended;

3. Misdemeanor reckless or careless driving under M.S.A. § 169.13, or similar law of another state; or

4. Refusal to submit to a chemical test under M.S.A. § 169A.20, subd. 2;

b. No license revocation within the previous year, as defined by M.S.A. § 169A.03, subd. 21;

c. For initial TNC endorsement: no more than four moving violations within the last three years, and no more than two moving violations in the last year;

d. To maintain existing TNC endorsement: no more than four moving violations within the last three years and no more than two moving violations in the last year. The term "moving violation," for this subsection, means a violation of a traffic regulation but does not include a parking violation, vehicle equipment violation, or warning citation;

(8) Has at least one year's driving experience as a licensed driver, meeting the standards of this subsection. Such prior driving experience shall be verified by the TNC prior to endorsement as a TNC driver;

(9) Has a demonstrated knowledge of the provisions of this division relating to the conduct of TNC endorsed drivers;

(10) Has not had a taxicab or commercial driver's license suspended, revoked, or involuntarily nonrenewed by a city or state within the five years immediately preceding their application to be a driver.

(b) All licensees shall perform a criminal history record check pursuant to the procedures outlined in M.S.A. § 299C.67 on each transportation network company driver applicant before endorsing such applicant. All licensees shall also obtain and review each transportation network company driver applicant's driving record in all states where the applicant driver has held a driver's license in the past five years before endorsing such driver. At the time of application, all transportation network company drivers must also provide valid authorization for the city clerk to perform a criminal history check of the driver applicant. The authorization must be ongoing and remain valid and in force at all times the driver is endorsed by the transportation network company (TNC).

(c) Not more than one year after the initial date of endorsement of a driver, and annually thereafter, each licensee shall verify that the driver is still eligible to be a transportation network company driver by verifying that the driver meets all of the requirements specified in this section, including the driving and criminal background check requirements, and shall keep records of such verification for a period of five years and shall allow such records to be reviewed by law enforcement personnel or the designated authority upon request.

(d) If a licensee knowingly allows an ineligible driver access to its digital network or fails to annually ascertain the eligibility of each driver such licensee allows access, the licensee shall be liable for the violation of this section and shall also be jointly responsible with the ineligible driver for any violation of this division by the ineligible driver.
(Code 2015, § 5.37(12); Ord. No. 17-0814-5, § 5.37(12), 8-14-2017)

Sec. 6-190. Intoxicating substance policy.

Every licensee shall include on its website or mobile application a notice or information on the licensee's zero-tolerance policy for intoxicating substances and the methods to report a transportation network company driver whom the rider reasonably suspects was under the influence of drugs or alcohol during the ride. The website and mobile application shall include the means to report the zero-tolerance complaint to the TNC.
(Code 2015, § 5.37(13); Ord. No. 17-0814-5, § 5.37(13), 8-14-2017)

Sec. 6-191. Driver identification card.

The licensee shall issue an identification card to TNC endorsed drivers. Such identification card shall have the first name of the driver and a photograph attached to the identification card. Any transportation network company driver shall wear the identification card at all times while operating a transportation network vehicle and are active on the TNC dispatch system, or this card may be electronically displayed to the passenger's mobile device during a TNC ride.
(Code 2015, § 5.37(14); Ord. No. 17-0814-5, § 5.37(14), 8-14-2017)

Sec. 6-192. Operating regulations.

(a) In addition to all other applicable requirements provided by law, it shall be unlawful for any person:

(1) To operate a transportation network vehicle while under the influence of alcoholic beverages or controlled substances, other than medication prescribed by a physician, provided that such prescribed medication does not warn that the user should not operate machinery while taking the medication;

(2) To operate, or cause to be operated, a transportation network vehicle in any area where the operation of such vehicle is prohibited by an applicable law;

(3) To operate a transportation network vehicle within the city while not in possession of a valid driver's license; or

(4) To transport or cause to be transported more than six passengers on any given ride in a vehicle, or to exceed the designed capacity of the vehicle.

(b) No transportation network driver shall pick up or discharge a passenger at:

(1) Designated taxicab stands;

(2) No stopping or standing zones;

(3) Bus stops;

(4) In the designated lane of traffic; or

(5) Other restricted areas as outlined in this division or state law.

(c) No person may possess an open beverage alcohol container while such person is operating or being transported by a transportation network vehicle, nor may any person transport, carry, possess or have any beverage alcohol while being transported by a transportation network vehicle, except in the original package with the seal unbroken.

(d) No licensee or transportation network driver shall solicit potential passengers. Transportation network vehicles may only be used to provide transportation network services requested via an internet-based transportation application system.

(e) No transportation network driver shall accept or respond to passengers' or potential passengers' requests for service via traditional street hail, including hand gestures and verbal statements.

(f) No transportation network vehicle shall be unlawfully parked on any public way for a time longer than is reasonably necessary to accept passengers in answer to a prearranged ride and no passenger shall be accepted except as provided in subsection (d) of this section.

(g) The internet-enabled application or digital platform used by a licensee to connect drivers and passengers shall display for a passenger:

(1) The identification card of the transportation network driver; and

(2) A picture or description of the transportation network vehicle the driver is approved to use, including the make, model, and license plate number of the vehicle.

(h) Licensees shall clearly disclose, on the licensee's on-line enabled application or digital platform and website, that the licensee is a transportation network company. Additionally, the disclosure shall state that each licensee is required to maintain insurance policies as specified in subsection (i) of this section.

(i) Licensees shall provide proof of insurance documents required in subsection (g) of this section to each transportation network driver before the driver begins providing service and for as long as the driver remains available to provide service.

(j) Licensees shall have an affirmative duty to respond to requests for service and shall be responsible for the actions of any of its employees, transportation network drivers, or other person that reports to, or acts as an agent of, the licensee, for any failure to respond to a request for service from an orderly passenger.

(k) A transportation network driver shall at all times carry in the TNC vehicle proof of the insurance policies required in subsection (g) of this section.

(l) Any terms or conditions in the agreement between the licensee and the passenger that would act as a waiver of the licensee's liability to the passenger, or to the public, are declared to be contrary to public policy, null, void and unenforceable.

(m) Certificate of inspection. The licensee must certify that all TNC approved vehicles have been inspected for safety prior to operation on the digital network and at least annually thereafter. Proof of inspection must be carried and provided by the TNC approved driver upon request.

(n) TNC drivers may not:

(1) Provide false information to or refuse to obey or to comply with any lawful order or direction of the city clerk or any police officer, or traffic control officer, nor shall any licensee use profane language or otherwise interfere with such officials while in the performance of their duties;

(2) Take a circuitous route to a destination, or any route other than the most direct route, without the express consent of the passenger;

(3) Drop a passenger at a location other than the location requested unless prohibited by law; or

(4) Refuse to convey an orderly passenger after accepting dispatch to convey that passenger.

(o) No TNC licensee shall disable, eliminate or otherwise prevent access to the TNC mobile application by the city clerk for the purposes of enforcing this division.

(p) No TNC licensee shall notify TNC drivers that a potential customer is or may be a law enforcement official or designated authority, or in any way otherwise interfere with or obstruct enforcement of this division.

(q) Smoking. In accordance with the Minnesota Clean Indoor Air Act (M.S.A. § 144.414, subd. 1, as it may be amended from time to time, smoking of tobacco products is prohibited inside a TNC driver's vehicle.

(r) Occupants allowed in vehicle. No person operating a TNC vehicle shall allow a greater number of passengers to occupy or be transported in the vehicle than the number of legal seated/belted positions within the vehicle.
(Code 2015, § 5.37(15); Ord. No. 17-0814-5, § 5.37(15), 8-14-2017)

Sec. 6-193. Services charges and fare rates.

(a) Compensation for service may be charged based on distance travelled or time elapsed during service, or a prearranged fare presented and agreed to by the passenger.

(b) If the rates are based on distance travelled or time elapsed during service, the rates must be posted by the TNC in the application or website. If the rates vary from the posted rate, the TNC application must require that the passenger positively acknowledge on the application device used to summon the TNC driver that they agree to the rate structure being charged for the trip requested.

(c) Upon completion of a prearranged ride, a TNC shall transmit to the passenger an electronic receipt, either by electronic mail or via text message. The message shall document:

(1) The point of origin and destination of the ride;

(2) The total distance and duration of the ride, if the fare is based on distance travelled or time elapsed during the ride;

(3) The total fare paid including the base fare and any additional charges; and

(4) The driver's first name and a means to submit a customer service complaint or inquiry to the TNC.

(Code 2015, § 5.37(16); Ord. No. 17-0814-5, § 5.37(16), 8-14-2017)

Sec. 6-194. Records and reports.

(a) Every licensee shall keep accurate books and records of account of the licensee's operations for a minimum of three years. Such records shall be submitted for inspection upon the request of the city clerk.

(b) Records requested by the city clerk pursuant to this or any other section within this division may be submitted electronically so long as:

(1) The records are submitted in an electronic format approved by the city clerk;

(2) The records are either:

a. Time-stamped or otherwise authenticated in such a manner that they are not susceptible to manipulation occurring after the records request is issued; or

b. Accompanied by a certification from the licensee's designated records custodian in the form of an affidavit attesting that the documents have not been altered subsequent to the request; and

c. The records are transmitted to the city clerk within 72 hours of the time of the request.

(c) Audit procedures and confidentiality of records.

(1) For the sole purpose of verifying that a TNC is in compliance with the requirements of this division and no more than annually, the city clerk shall have the right to visually inspect a sample of records that the TNC is required to maintain. The sample shall be chosen randomly by the city clerk in a manner agreeable to both parties. The audit shall take place at a mutually agreed location. Any record furnished to the city clerk may exclude information that would tend to identify specific drivers or riders.

(2) In response to a specific complaint against any TNC driver or TNC, the city clerk is authorized to inspect records held by the TNC that are necessary to investigate and resolve the complaint. The TNC and agency shall endeavor to have the inspection take place at a

mutually agreed location. Any record furnished to the city clerk may exclude information that would tend to identify specific drivers or riders, unless the identity of a driver or rider is relevant to the complaint.

(3) Any records inspected by the city clerk under this division are designated as confidential and are not subject to disclosure to a third party by the city clerk except as may be required by applicable law. If the city clerk receives a request for TNC records under the Minnesota Government Data Practices Act, M.S.A. § 13.01 et seq., the city clerk must notify the TNC of the request prior to release to give the TNC an opportunity to seek protection of such records in accordance with applicable law. Nothing in this section shall be construed as limiting the applicability of any exemptions under the Minnesota Government Data Practices Act, M.S.A. § 13.01 et seq.

(d) The licensee must provide, upon the request of the city clerk, director of public safety, or their designees, factual information regarding the licensee's drivers and vehicles so as to determine whether or not a particular TNC driver was active on the TNC dispatch system application, in route to a passenger location, or engaged with a passenger at a specific time and date. Such information shall be provided within 24 hours of the request unless otherwise required by the city clerk.
(Code 2015, § 5.37(17); Ord. No. 17-0814-5, § 5.37(17), 8-14-2017)

Sec. 6-195. Violations and penalties.

(a) The city clerk may seek all applicable penalties, including, but not limited to, fines, license conditions, license suspension, denial, and license revocation in addition to restitution or other equitable relief against any licensee that violates this division or any rules or regulations adopted pursuant to this division. Each day that any violation shall continue may be deemed a separate and distinct offense. In determining whether to multiply violations for each day they continue, the council may consider the ongoing duration of the violation after the licensee could reasonably have been expected to be aware of the violation.

(b) Before any condition, suspension, revocation, or fine is imposed, or equitable relief is ordered, the licensee shall be notified of the specific charges against them and of their right to a hearing before the public safety advisory committee pursuant to chapter 2, article III, division 2.

(c) Any person whose TNC license is revoked or denied under this division shall be ineligible to receive another TNC license for a period of five years following revocation or denial.
(Code 2015, § 5.37(18); Ord. No. 17-0814-5, § 5.37(18), 8-14-2017)

Sec. 6-196. Sanctions; suspension or revocation.

(a) Violations of these provisions may result in a penalty being issued in the form of a strike, as defined in section 6-179, may be appealed following the city's administrative hearing procedure.

(b) Strikes issued for failing to comply with any applicable statute, regulation, or provision of this division relating to TNCs shall be outlined in a penalty/strike matrix adopted by resolution of the council. The city reserves the right to deviate from the matrix at any time based on the seriousness of the offense. Civil penalties may be imposed as adopted by resolution of the council. Conviction of a violation in a court of law is not required in order for the imposition of a civil penalty.

(c) Subsequent violations. Three or more violations or strikes issued at one time or within a 12-month time period will be heard by the city council and be subject to licensing actions including suspension, revocation or other sanction as deemed appropriate by city council.
(Code 2015, § 5.37(19); Ord. No. 17-0814-5, § 5.37(19), 8-14-2017)

Secs. 6-197—6-217. Reserved.

DIVISION 6. TAXICABS

Sec. 6-218. Definitions.

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

Downtown taxi zone means the area within the city street borders of South Riverfront Drive, East Liberty Street, East Main Street, and South Broad Street.

Driver means any person who drives a taxicab, whether such person is the owner of such taxicab or an employee of the owner of such taxicab.

License sticker means an adhesive sticker, created and issued by the city, which bears a sequence of numbers used to identify a specific taxicab.

Licensee includes a person, firm, association, sole proprietorship, stock corporation, co-operative organization or other entity, however organized, including the management and officers thereunder, that is awarded a taxicab business license by the city and operates a taxicab service.

Manifest means a record prepared daily by a taxicab driver showing all trips made by the driver at the time and place of origin, including the name of the taxicab driver, the vehicle number, destination, number of passengers, and the amount of fare for each trip.

Operator means any person owning, leasing or otherwise having control of a given taxicab.

Pre-arranged means a written or telephone reservation made at least one hour in advance by the person requesting service at the place of business of the for-hire license holder for the provision of limousine, shuttle, or small passenger vehicles (licensed by the state) for a specified period of time.

Soliciting business refers to a taxicab driver engaged in the practice of offering taxicab rides to the general public when the ride is not pre-arranged. Taxicabs may solicit business only when legally parked on street (not in the parking ramps or municipal lots in the downtown taxi zone). Soliciting business is strictly prohibited from moving taxicabs.

Special call for service means a pre-arranged call setting a specific date/time for service with a specified taxicab company. Pre-arranged calls shall be documented in the taxi's manifest and are subject to inspection by the city for compliance. Pre-arranged calls may pick-up and drop-off outside of taxi stands when legally parked in a pre-determined location as documented on the specified taxicab's manifest.

Strike means a penalty issued for failing to comply with licensing requirements, city ordinance or state statute.

Taxi business license means a group of six or more taxicab licenses owned by the city and issued to a single licensee. Such licenses shall remain the title and property of the city.

Taxicab means a vehicle driven by mechanical power, except a limousine or motor carrier of passengers, or a transportation network company. The term "taxicab" includes any vehicle for hire designed to carry seven persons or less, including the driver, operated upon any highway in the city or on call or demand, accepting or soliciting passengers indiscriminately for transportation for hire between points along streets or highways as may be directed by the passenger so being transported.

Transportation network company includes, but is not limited to, any person or entity that provides transportation via an application system that connects endorsed drivers with passengers for compensation.

Yearly tab means an adhesive sticker, created and issued by the city, which is adhered to the license sticker used to reflect the current license year. The color of the yearly sticker shall coincide with the yearly tabs issued by the state DOT for vehicle license plates.
(Code 2015, § 5.38(1); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(1), 2-22-2016)

Sec. 6-219. Business license.

All taxicab operators must maintain a business name with the secretary of state with a status of good standing.
(Code 2015, § 5.38(2); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(2), 2-22-2016)

Sec. 6-220. License required.

(a) *Licenses generally.* It is unlawful for any person to operate or permit to be operated any taxicab owned, leased or controlled by such person as a vehicle for hire within the city without first having obtained a taxicab vehicle license from the city for such taxicab.

(b) *Application.* Every application for a license issued under this division shall be on a form provided by the city. Every application shall be filled out completely with all information requested.

(c) *Issuance.* In the event an application for a license required by this division is granted, upon payment of the license fee, a license shall be issued. The city may impose reasonable restrictions or conditions upon the license holder at any time the license is issued, renewed, transferred or reinstated following a suspension of that license, to address the operation of the business. Noncompliance with any condition of the license is addressed in section 6-237.

(d) *Expiration.* All licenses issued by the city, unless sooner revoked by the city, will expire on December 31 of each year. All licenses that are allowed to expire will be subject to cancellation within five days after expiration. If the licensee applies for a renewal following the expiration of a license, a late fee, as established by resolution of the city council and provided in the city fee schedule, shall be applied.

(e) *Renewal.* Applications for renewal of licenses granted under this division shall be mailed to the license holder, to the address listed on file, no later than November 1 and must be filed with the city clerk no later than December 1 of each year preceding the expiration of the current license. Failure to submit a completed license application to the city by December 1 will result in a late fee in the amount provided in the city fee schedule for each week the application is late. Failure to submit a completed license application may result in the interruption of taxi service. An application submitted by mail will be deemed to be submitted on the day it is postmarked by the U.S. Postal Service. If December 1 falls on a Saturday, Sunday or legal holiday, the application will be due the next business day.

(Code 2015, § 5.38(3); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(3), 2-22-2016)

Sec. 6-221. Transfer.

(a) Upon any transfer of ownership of any taxicab, where the transferor indicates that the vehicle is no longer to be operated as a taxicab, the city may transfer such license for use on another taxicab as designated by transferor.

(b) A license may also be transferred when the licensee produces satisfactory evidence that such taxicab has been totally destroyed or otherwise, ceased to be used as a taxicab.

(c) Upon any transfer of ownership of a taxi business license where the transferor indicates that such vehicle is to continue in use as a taxicab, the city may transfer the license to the new owner upon receiving and approving the application for licensure by the new owner.

(d) (1)Upon the death of any person owning hereunder a taxi business license, the city may, at the request of the deceased's personal representative and upon receipt of satisfactory evidence of such death, transfer such license upon receiving and approving the application for licensure by the new owner.

(2) No transfer will be made unless and until the transferee complies with the terms and provisions of this division.

(Code 2015, § 5.38(5); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(5), 2-22-2016)

Sec. 6-222. Display of license.

When a license has been granted, the city clerk will issue a license sticker or yearly tab for each vehicle licensed. The license sticker or yearly tabs will be permanently displayed on the rear bumper, driver's side on each taxicab. Taxicab license stickers and yearly tabs must be firmly adhered, in clear view and unobstructed. If a taxicab has a license sticker from a previous year, only a yearly tab

will be issued. The yearly tab will be adhered over previous yearly tabs. Taxicab license stickers must be clear from obstruction, unaltered and readable. Any damaged license stickers or yearly tabs must be replaced at the expense of the operator. If the taxicab is permanently removed from service or sold, all taxicab license stickers and yearly tabs must be immediately removed.
(Code 2015, § 5.38(6); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. of 8-12-2013; Ord. No. 16-0222-3, § 5.38(6), 2-22-2016)

Sec. 6-223. Insurance required.

No taxicab vehicle licenses shall be issued until the applicant obtains and files with the city clerk evidence of and, at all times during which such licenses shall be effective, maintain liability insurance in the amount of $500,000.00 combined single limit for bodily injury/property damage. The policy providing such insurance shall provide for ten days' written notice to the city clerk before any cancellation of such policy may become effective. The license holder shall ensure each licensed and insured vehicle is properly titled in the company's name.
(Code 2015, § 5.38(7); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. of 8-12-2013; Ord. No. 16-0222-3, § 5.38(7), 2-22-2016)

Sec. 6-224. Number of licenses.

Each license holder shall obtain a taxi business license, which consists of a group of six taxicab licenses. Additional licenses can be added after establishing the minimum requirement of six. There's no cap on the vehicle licenses that can be added. The annual fee for a taxi business license and each additional vehicle licensed will be established by resolution of the city council and provided in the city fee schedule.
(Code 2015, § 5.38(8); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. of 8-12-2013; Ord. No. 16-0222-3, § 5.38(8), 2-22-2016)

Sec. 6-225. Rates.

Each applicant for a taxicab vehicle license shall file with the city a schedule of rates to be charged by the applicant 14 days prior to their implementation. The schedule shall be posted by the licensee in a conspicuous place in each licensed vehicle. The rates set forth in such schedule shall constitute the maximum rates which the licensee shall be permitted to charge any customer. A taxicab driver may not accept tips/gratuities in lieu of rates. Approved rates shall not discriminate in a manner prohibited in this Code or under state law.
(Code 2015, § 5.38; Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. of 8-12-2013; Ord. No. 16-0222-3, § 5.38(9), 2-22-2016)

Sec. 6-226. Drivers.

(a) Every taxicab operator must, on a yearly basis, verify that each taxicab driver in their employment meets the following standards:

(1) Is a citizen of the United States or an alien admitted for permanent residence, or who has otherwise obtained work authorization from the U.S. Citizenship and Immigration Services;

(2) Is the holder of a valid state driver's license authorizing operation of the licensed vehicle;

(3) Is able to read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries and to make entries on reports and records;

(4) Is 18 years of age or over;

(5) Has obtained and provided a doctor's certificate, effective for three years, indicating the applicant is free from any infirmity, physical or mental, which would render the applicant unfit for the safe operation of the licensed vehicle;

(6) Have a driving record, at least for the past three years, clear of:

a. A license cancellation under M.S.A. § 171.14, a revocation under M.S.A. §§ 169A.52 and 171.17; or a suspension under M.S.A. § 171.18;

b. A conviction for operating a motor vehicle without insurance under M.S.A. § 169.797;

c. A conviction for driving a motor vehicle without a valid license for the class of vehicle driven under M.S.A. § 171.02;

d. A conviction for driving under the influence of alcohol or a controlled substance under M.S.A. § 169A.20, or an ordinance that conforms to that section; and

e. A conviction for alcohol-related driving by a commercial vehicle driver under M.S.A. § 169A.20, subd. 1, clause (6), subpt. 6; and

(7) Have a criminal record clear of any conviction:

a. As a habitual offender for driving under the influence of alcohol or a controlled substance under M.S.A. § 169A.24 or 169A.25; and

b. Of a crime or anticipatory crime against persons, or a crime or anticipatory crime. The following offenses are crimes against persons are listed with the section, subdivision, or chapter number showing where the offense is found in state statutes, as they may be amended from time to time:

1. Attempts, felony level, M.S.A. § 609.17;
2. Conspiracy, felony level, M.S.A. § 609.175;
3. Murder in the first degree, M.S.A. § 609.185;
4. Murder in the second degree, M.S.A. § 609.19;
5. Murder in the third degree, M.S.A. § 609.195;
6. Manslaughter in the first degree, M.S.A. § 609.20;
7. Manslaughter in the second degree, M.S.A. § 609.205;
8. Criminal vehicular homicide and injury, M.S.A. §§ 609.2112 and 609.2113;
9. Assault in the first degree, M.S.A. § 609.221;
10. Assault in the second degree, M.S.A. § 609.222;
11. Assault in the third degree, M.S.A. § 609.223;
12. Assault in the fourth degree, M.S.A. § 609.2231;

13. Great bodily harm caused by distribution of drugs, M.S.A. § 609.228;
14. Use of drugs to injure or facilitate crime, M.S.A. § 609.235;
15. Simple robbery, M.S.A. § 609.24;
16. Aggravated robbery, M.S.A. § 609.245;
17. Kidnapping, M.S.A. § 609.25;
18. False imprisonment, M.S.A. § 609.255;
19. Abduction, M.S.A. § 609.265;
20. Criminal sexual conduct in the first degree, M.S.A. § 609.342;
21. Criminal sexual conduct in the second degree, M.S.A. § 609.343;
22. Criminal sexual conduct in the third degree, M.S.A. § 609.344;
23. Criminal sexual conduct in the fourth degree, M.S.A. § 609.345;
24. Solicitation of children to engage in sexual conduct, M.S.A. § 609.352;
25. Fleeing a peace officer in a motor vehicle, M.S.A. § 609.487;
26. Misusing credit card to secure services, M.S.A. § 609.545;
27. Burglary, M.S.A. § 609.582, subd. 1; or
28. Prohibited drugs: felony convictions, M.S.A. ch. 152.

(b) A city taxicab driver record form shall be used to document the driver's records. All taxicab driver record forms and supporting documentation shall be kept by the operator for a minimum of five years and shall be available for review by the city immediately upon request.
(Code 2015, § 5.38(10); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(10), 2-22-2016)

Sec. 6-227. Smoking.

In accordance with the state Clean Indoor Air Act (M.S.A. § 144.414 sub 1), smoking of tobacco products is prohibited inside any taxicab.
(Code 2015, § 5.38(11); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(11), 2-22-2016)

Sec. 6-228. Driver impairment.

No driver shall be permitted to operate a taxicab while under the influence of alcohol or any mood-altering drug (prescription or nonprescription). No driver shall possess any controlled substance or alcoholic beverage while operating a taxicab.
(Code 2015, § 5.38(12); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(12), 2-22-2016)

Sec. 6-229. Daily manifests.

Every driver of a taxicab shall maintain a daily manifest upon which shall be recorded the time and place of origin and include the name of the taxicab driver, the vehicle number, destination, number

of passengers, and the amount of fare for each trip. The manifest system shall be furnished to the driver by the licensee and shall be returned daily to the licensee by the driver at the conclusion of each tour of duty. The licensee shall preserve the daily manifests for a period of three years and shall submit immediately upon request of the city any information contained in the manifest system.
(Code 2015, § 5.38(13); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(13), 2-22-2016)

Sec. 6-230. Certificate of inspection.

No taxicab vehicle license shall be issued until the applicant files with the city clerk certification that each vehicle licensed has been inspected by a certified mechanic and has passed the inspection. An automotive service excellence (ASE) certificate of inspection must be completed on a yearly basis and submitted to the city with the taxicab vehicle license renewal.
(Code 2015, § 5.38(14); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 10-22-2001; Ord. of 8-27-2012; Ord. of 8-12-2013; Ord. No. 16-0222-3, § 5.38(14), 2-22-2016)

Sec. 6-231. Occupants allowed in vehicle.

No person operating a taxicab shall allow a greater number of passengers to occupy or be transported in the vehicle than the number of legal seated/belted positions within the vehicle.
(Code 2015, § 5.38(15); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(15), 2-22-2016)

Sec. 6-232. Taxicab markings.

All taxicabs shall have a taxicab marquee illuminator on the top roof of the licensed taxicab. In addition, all taxicabs shall have decal markings indicating a business name on the driver's side, passenger side and rear of the vehicle. Markings must:

(1) Contrast with the paint of the vehicle;

(2) Be at least three inches in height;

(3) Be in a legible font style, non-script; and

(4) Text must be written in the English language.
(Code 2015, § 5.38(16); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(16), 2-22-2016)

Sec. 6-233. Business office.

All taxicab companies shall have a designated office within the city limits where books and files necessary to conduct business along with the records required by this division are kept and made available for inspection. The office shall conform to the zoning regulations for businesses, shall be located in a commercial zoning district, and provide adequate signage of the business location. The

office shall have regularly established business hours on file with the city. The taxicab company shall also maintain adequate off-street parking areas for the storage of taxicabs. The off-street parking areas shall be located in a commercial or industrial zoning district.
(Code 2015, § 5.38(17); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(17), 2-22-2016)

Sec. 6-234. Dispatch.

All taxicab companies must provide dispatch services during their operating hours. The dispatch system shall identify the hours of service to the caller.
(Code 2015, § 5.38(18); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(18), 2-22-2016)

Sec. 6-235. Taxicabs licensed outside city.

Taxicabs having no city license and whose place of business is not in the city may bring passengers into city but may not pick up passengers for any destination or accept any business within the city.
(Code 2015, § 5.38(19); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(19), 2-22-2016)

Sec. 6-236. Taxi stands.

(a) The city council may, by resolution, establish necessary stands for taxicabs upon the public streets in the city and shall designate such stands by placing signs at the locations of the designated stands. No vehicle other than a licensed taxicab shall be permitted to stand or park at such designated taxicab stands.

(b) A taxicab must comply with the requirements of the approved taxi stands and hours of use limitations. Failure to comply may result in the suspension or revocation of the taxicab license.

(c) No taxicab shall take on or discharge passengers while in motion or at street corners. All passengers shall be received and discharged at the curb or as near thereto as the vehicle may approach. Passengers shall be allowed to alight or board a taxicab on the curbside only.

(d) During the hours of 10:00 p.m. to 5:00 a.m., no taxicabs shall receive or discharge passengers on city streets or alleys in the downtown taxi zone, except at the designated taxicab stand areas or when legally parked in on-street parking. This provision does not apply to taxicabs responding to or discharging passengers pursuant to a special call for service as defined in section 6-218.
(Code 2015, § 5.38(20); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. of 8-12-2013; Ord. No. 16-0222-3, § 5.38(20), 2-22-2016)

Sec. 6-237. Sanctions; suspension or revocation.

(a) Violations of these provisions may result in a penalty being issued in the form of a strike, as defined in section 6-218. Strikes may be appealed following the city's administrative hearing procedure.

(b) Strikes issued for failing to comply with any applicable statute, regulation, or provision of this division relating to taxicabs shall be outlined in a penalty/strike matrix adopted by resolution of the council. The city reserves the right to deviate from the matrix at any time based on the seriousness of the offense. Civil penalties may be imposed as adopted by resolution of the council. Conviction of a violation in a court of law is not required in order for the imposition of a civil penalty.

(c) Subsequent violations. Three or more violations or strikes issued at one time or within a 12-month time period will be heard by the city council and be subject to licensing actions including suspension, revocation or other sanction as deemed appropriate by the city council.
(Code 2015, § 5.38(21); Ord. of 6-26-1978; Ord. of 3-24-1986, § 1; Ord. of 8-27-2012; Ord. No. 16-0222-3, § 5.38(21), 2-22-2016)

Secs. 6-238—6-269. Reserved.

DIVISION 7. MOBILE FOOD UNITS

Sec. 6-270. Definitions.

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

Food cart means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.

Food hub means a collection of three or more licensed food carts or food trucks operating on private property per an approved conditional use permit.

Food truck means a food establishment preparing or serving foods or beverages from a self-contained vehicle, either motorized or within a trailer, on public sidewalks, private property, or curbside on public streets. The vehicle shall be readily movable, without disassembling, for transport.

Mobile food unit means a food and beverage service establishment that is a vehicle mounted unit, either:

(1) Motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minn. R. pt. 4626.0020, subpt. 70; or

(2) Operated in conjunction with a permanent business licensed under M.S.A. ch. 157 or 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

Public entrance is an entrance that is not a service entrance or a restricted entrance.
(Code 2015, § 5.39(1); Ord. No. 18-0514-6, § 5.39(1), 5-14-2018)

Sec. 6-271. License required.

No person shall operate a mobile food unit in the city without a valid license required under this section. To the extent authorized in any such license granted under the provisions of this section, the licensee may conduct such licensed business curbside on the street, public property, public rights-of-way, or private property notwithstanding the provisions of this Code.

(1) The fee for an annual license shall be established by resolution of the city council and provided in the city fee schedule, and shall be valid for one mobile food unit expiring on December 31 of each year.

(2) Mobile food unit licenses may not be transferred.

(Code 2015, § 5.39(2); Ord. No. 18-0514-6, § 5.39(2), 5-14-2018)

Sec. 6-272. Exemptions.

(a) Community events approved by the city as a special event shall be exempted from the terms of this division, provided the vendors are compliant with the state department of health standards.

(b) Accessory uses or sales of products or goods which are an extension of a principal use of the property.

(Code 2015, § 5.39(3); Ord. No. 18-0514-6, § 5.39(3), 5-14-2018)

Sec. 6-273. Food hubs.

All food hubs must be approved per a conditional use permit, and all mobile food units within the hub must be properly licensed. All food hubs shall conform to the standards in section 6-276, in addition to the following:

(1) Food hubs shall adhere to public safety, fire, and building official separation requirements from the mobile food unit to the building.

(2) Food hubs shall provide plans for a restroom or a shared access agreement for the use of restroom facilities in a building located within the area (100 feet) of the food hub. Restroom facilities located onsite shall have a decorative enclosure and be screened from public view. Plans shall include signage for the restroom facilities. Any restrooms associated with an event at the property shall be removed within 24 hours of the event.

(3) Food hubs shall provide a parking calculation including dedicated stalls for use. The parking calculation shall address the vehicles currently using the parking lot.

(4) The operator of the food hub shall provide the city clerk a schedule of events. The city clerk shall provide approval of the live entertainment events. Any complaints received related to noise will be addressed per the standards set forth in chapter 11.

(5) All driving and parking surfaces shall be hard surfaced with asphalt or concrete. Any area not hard surfaced shall be seed/sod or otherwise landscaped.

(6) A decorative or screened trash receptacle with locations throughout the site to accommodate the debris generated from the site shall be provided.

(7) Bike racks shall be supplied at the site in accordance with chapter 10.

(8) A landscaping plan shall be required.

(9) A photometric plan shall be required with all lighting and fixtures conforming to this Code.

(10) Utility plans shall be submitted for review and approval. All food trucks shall be parked in a designated food truck stall that has utility services provided.

(11) Mobile food units shall be removed from the site at the end of each day and shall not be stored onsite.

(12) When the food hub is not in operation, storage, other than vehicles, is not permitted onsite.

(Code 2015, § 5.39(4); Ord. No. 18-0514-6, § 5.39(4), 5-14-2018)

Sec. 6-274. Application.

Application for a mobile food unit shall be made to the city. The city clerk may require such information on the application as it deems reasonable and necessary, including, but not limited to, the following:

(1) Business name and business address of the applicant.

(2) The applicant shall provide written proof of consent from the property owner to use the property for food preparation, storage, sale, and cleaning.

(3) A listing of all proposed vending locations, including address or adjacent address.

(4) Copies of all licenses or permits required by the state department of health. The food preparation location and all equipment shall comply with state department of health standards.

(5) A description of the preparation methods and food product offered for sale, including the intended menu, display, and distribution containers.

(6) The anticipated volume of food to be stored, prepared, and sold.

(7) A signed statement that the licensee will defend, indemnify, and hold the city harmless from any and all claims for damage to property or injury to persons which might result or arise out of the applicant's operation of a mobile food unit as permitted by this division.

(8) A certificate of insurance showing the applicant has obtained liability, food products liability, and property damage insurance that will protect licensee, property owners, and the city from all claims for damage to property or bodily injury, including death, which may arise from operations under the license or in connection therewith. Such insurance shall provide coverage of not less than $1,500,000.00 per occurrence. The policy shall further provide that it may not be cancelled except upon 30 days' written notice filed with the city clerk. No license issued pursuant to the provisions of this section shall be valid at any time the insurance required herein in not maintained and evidence of its continuance filed with the city clerk.

(Code 2015, § 5.39(5); Ord. No. 18-0514-6, § 5.39(5), 5-14-2018)

Sec. 6-275. Inspection.

Upon receipt of an application for any mobile food unit on public property or private property, the city clerk shall forward a copy of such application to the fire division, whereupon the fire division shall, within ten days after receiving such application, inspect the property to be licensed to determine whether such property complies with the provisions of applicable codes and statutes to ensure conformance of any cooking or heating apparatus. No mobile food unit license shall be issued by the city unless the mobile food unit complies with the provisions of this Code, the state fire code, and NFPA standards which pertain to such mobile food unit.
(Code 2015, § 5.39(6); Ord. No. 18-0514-6, § 5.39(6), 5-14-2018)

Sec. 6-276. Location review and standards.

Proposed operating locations shall be reviewed. Mobile food units located on private and public property shall conform to the following standards:

(1) Mobile food units shall not negatively impede pedestrian movement or parking.

(2) Mobile food units shall not be located within a sight triangle. A sight triangle is a triangle at an intersection, formed by the two roads or rights-of-way and a third line, which must be kept clear of obstructions for 25 feet each direction from the property corner.

(3) Pedestrian walkways of no less than six feet shall be maintained on the service side of the mobile food unit.

(4) Ingress and egress to private property shall be through existing driveway openings only. Mobile food units shall not block required drive aisles.

(5) No more than two mobile food units may operate in a private parking lot unless approved as a food hub or approved by the city clerk for a community event, which shall remain in compliance with this Code, including the off-street parking requirements for the host parking lot.

(6) Parking on streets is permitted when in compliance with all ordinances, regulations, parking zones and posted signage. Sales by the licensee shall be made on the curbside only and the vehicle shall be parked within one foot of the curb. No mobile food unit shall operate from the public right-of-way within a 100-foot radius from a public entrance of an operating restaurant. This requirement may be waived if the licensee furnishes written consent from the proprietor of the operating restaurant, of if it's a food hub that's existence prior to the restaurant opening.

(7) For private property, no mobile food unit shall operate within areas identified as buffer areas on the mobile food unit buffer map. The map will be updated annually to provide updated locations of restaurants and buffer areas. The mobile food unit buffer map will be used to identify acceptable locations for applications submitted within the year the map was created. The mobile food unit buffer map shall reflect the following setback requirements:

   a. In the city center, as defined by the city center renaissance plan, no mobile food unit shall operate where an operating restaurant is within 100 feet on the same block face,

measured from the door of the operating restaurant establishment to the mobile food unit. This requirement may be waived if the licensee furnishes written consent from the proprietor of the operating restaurant.

b. In commercial and industrial zones outside of the city center, no mobile food unit shall operate where an operating restaurant is within 100 feet on the same block face, measured from the property line. This requirement may be waived if the licensee furnishes written consent from the proprietor of the operating restaurant.

(8) A licensee shall not operate any mobile food unit within 100 feet of any event that is licensed or sanctioned by the city, or in a city park, unless the licensee has obtained written consent in the form of a permit, agreement, or other required written authorization from the city clerk.

(9) A licensee shall not operate any mobile food unit within 100 feet of a controlled entrance to a regional sports arena or facility, unless the licensee has obtained written permission from the owner and furnished such written permission to the city clerk at least 15 days in advance of such use.

(10) Mobile food units shall not operate within a residential zoning district, unless authorized by the city clerk for a community or private event.

(11) Mobile food units shall only be stored in a residential zoning district if the locations of storage are hard surfaced with asphalt or concrete and conform to the parking setbacks within zoning district.

(12) Mobile food units shall be allowed to set up one hour prior to conducting food vending and shall be relocated from the site with one hour of conducting business. The site shall be free of refuse and debris prior to exiting the site.

(13) No alcohol sales or distribution shall be made from a mobile food unit unless the applicant has been approved for the appropriate liquor license for distributing alcohol.

(14) The licensee shall pay the food and beverage tax on items sold.

(Code 2015, § 5.39(7); Ord. No. 18-0514-6, § 5.39(7), 5-14-2018)

Sec. 6-277. Conditions.

Mobile food units shall comply in all respects with all requirements of state law, including, but not limited to, Minn. R. chs. 1315, 1346, and 4626, and any requirements found in any other law, statute, rule, resolution, ordinance, or regulation of any kind and the following:

(1) All equipment shall meet applicable National Sanitation Foundation (NSF) food service equipment standards.

(2) All foods, beverages, and ice shall be obtained from an approved commercial source.

(3) Any food preparation or food storage done off-site shall be accomplished at location approved by the state department of health and chapter 10.

(4) Mobile food units shall operate a minimum of 21 days during the licensing period.

(5) No mobile food unit shall use or maintain any outside sound amplifying equipment, televisions or similar visual entertainment devices, lights, or noisemakers, such as bells, horns, or whistles.

(6) All waste liquids, garbage, litter and refuse shall be kept in leak proof, nonabsorbent containers which shall be kept covered with tight-fitting lids and properly disposed of at the licensed food establishment. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles, or any other place except the licensed food establishment. The garbage receptacle shall be easily accessible for customer use. The licensee shall be responsible for all litter and garbage left by customers.

(7) The mobile food unit shall not have a drive-through.

(8) A mobile food unit shall obey any lawful order of a police officer, traffic control agent, or other city inspector to move to a different authorized location to avoid congestion or obstruction of the street or sidewalk.

(9) The mobile food unit shall comply with the provisions of subsection (11) of this section relative to signage and advertising on the vehicle.

(10) Any lighting installed as part of the project shall be fully cut off and shall comply with subsection (12) of this section.

(11) No mobile food unit shall use external signage, bollards, seating, or any other equipment not contained within the cart or vehicle.

(12) Any power required for the mobile food unit shall be self-contained, screened from view, and shall not use utilities drawn from the public right-of-way. Mobile food units on private property may use electrical power from an adjacent property only when the owner provides written consent. No power cable or equipment shall be extended at grade across any city street, alley, or sidewalk.

(13) The height of the mobile food unit, including all accessory equipment, shall not exceed 13 feet, six inches.

(Code 2015, § 5.39(8); Ord. No. 18-0514-6, § 5.39(8), 5-14-2018)

Sec. 6-278. Revocation of license.

(a) Notwithstanding section 6-21(h), the city may revoke any license issued pursuant to the provisions of this division upon a finding that the licensee:

(1) Provided false or misleading information on the application;

(2) Failed to comply with any applicable state law, city ordinance, or state or county health regulation relating to a mobile food unit;

(3) Failed to possess any license, permit or approval from any state or county authority needed in order to legally operate the mobile food unit within the state or city;

(4) Allowed the mobile food unit business to be operated or maintained in a way that unreasonably annoyed, endangered or injured the safety, health, morals, comfort or repose of any considerable number of members of the public.

(b) Revocation can be appealed to a hearing officer per the administrative hearing procedure.
(Code 2015, § 5.39(9); Ord. No. 18-0514-6, § 5.39(9), 5-14-2018)

Secs. 6-279—6-304. Reserved.

DIVISION 8. GAMBLING

Sec. 6-305. Definitions.

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

Activities means lawful gambling or bingo.

Department of public safety means the city department of public safety.

Premises means the place where the activities are to take place.

Program means a printed description including the following information:

(1) The address of the premises at which the bingo occasion will be held;

(2) The time when the bingo occasions will be held;

(3) The cost of each card or package of cards;

(4) The payout for each game;

(5) The color of card to be used for each game;

(6) The name and address of the organization conducting the bingo occasion;

(7) If packages of cards are to be sold, a description of the package indicating the number of cards and their colors;

(8) A description of any special payouts; and

(9) A description of what is required to win each game.
(Code 2015, § 5.43(1); Ord. of 4-13-1992)

Sec. 6-306. Applications.

Any organization seeking licensure by state to conduct lawful gambling activities or bingo shall submit the following information to the city manager's office:

(1) A copy of the lease and any addenda thereto for the premises where the lawful gambling or bingo activities are to be held if the premises where the activities are to be held are not owned by the organization conducting the lawful gambling or bingo;

(2) A drawing showing the dimensions and location of the area leased for conducting the activities;

(3) A copy of the articles of incorporation of the organization conducting the activities;

(4) Proof that the organization has been in existence for three or more years;

(5) The full name and date of birth of all officers involved in conducting the activities;

(6) A description of the internal controls to be used by the organization to comply with Minn. R. pt. 7860.0150;

(7) In the case of an organization conducting bingo, a description of the method that will be used to reconcile the number of bingo cards sold against the inventory of bingo cards purchased by the organization; and

(8) The city department of public safety shall conduct criminal history background investigations on all applicants for licensure under this division. For the purposes of conducting this investigation and subject to present and future limitations on the use of the information imposed by the state bureau of criminal apprehension and the Federal Bureau of Investigation, the city department of public safety shall access the criminal justice data network administered by the state bureau of criminal apprehension. Information obtained from these sources and used for these background investigations may include, but is not limited to, driver's license information and records of arrest or conviction in this and any other state.

(Code 2015, § 5.43(2); Ord. of 4-13-1992; Ord. of 7-28-1997, § H; Ord. of 8-12-2013)

Sec. 6-307. Bingo halls.

Bingo occasions conducted in a bingo hall, or on premises not owned by the organization conducting the bingo occasion, shall comply with the following:

(1) Bingo cards may not be used for more than one game, unless the game is a consecutive one;

(2) Bingo cards shall be serially numbered;

(3) The organization conducting bingo shall maintain an inventory list of all bingo cards and their serial numbers and shall make such inventory available to city personnel inspecting the premises at all times that the bingo hall is open for bingo;

(4) A written program for each bingo occasion shall be prepared and submitted to the department of public safety for its approval at least 14 days prior to the occasion and shall be prominently displayed at the premises where the bingo occasion is held;

(5) No bingo occasion may be held unless prior approval of the bingo program has been given by the director of the department of public safety or his or her designee.

(Code 2015, § 5.43(3); Ord. of 7-25-1988; Ord. of 4-13-1992)

Sec. 6-308. Age restrictions.

(a) No person under the age of 18 years shall be permitted to be present, enter or remain on the premises of an establishment where pull-tabs, tip boards, or paddlewheels are being played or sold unless such minor is accompanied by his or her parent or guardian. This prohibition shall not apply to persons employed by or working as volunteers on the premises while under the supervision and control of a person 18 years of age or older; nor shall this prohibition apply to persons coming on to the premises of a fraternal organization for the purpose of attending a function or meeting for an organization of which the person is a member such as a scout troop, youth group or auxiliary sponsored by the fraternal organization.

(b) In reviewing an application for a gambling license, the council shall review the provisions made by the applicant to restrict entry onto the premises by minors. The council shall disapprove any license application for premises that do not effectively provide for preventing entry by minors.
(Code 2015, § 5.43(4); Ord. of 1-9-1989; Ord. of 4-13-1992)

Sec. 6-309. Multiple licenses.

Multiple license holders may operate lawful gambling activities at one premises if:

(1) All sales are made by employees or volunteers directly associated with the license holder, and sales of lawful gambling devices are made from designated booth areas only, not over the bar or counter; or

(2) Lawful gambling is allowed under the license of only one license holder at a time. The license holders must provide a schedule of the dates and time that each license will be used. No license holder will be allowed to designate their license for use for less than a 24-hour period.

(Code 2015, § 5.43(5); Ord. of 4-13-1992)

Sec. 6-310. Tax.

A tax of three percent shall be imposed upon the gross receipts received by licensed organizations within the city from the conduct of lawful gambling activities. Such three percent tax shall be levied on such gross receipts less the cost of prizes actually paid out by the organization. Such tax shall be paid to the city on a monthly basis, not less than 20 days after the end of the month. Such payment shall be accompanied by a report containing the following information upon such form as may be required by the city finance director:

(1) Total amount of receipts from lawful gambling activities during the reporting period.

(2) The total amount of prizes actually paid out by the organization during the reporting period.

(3) The signature of the person filing the return.

(4) The period covered by the return.

(Code 2015, § 5.44(1); Ord. of 4-25-1988; Ord. of 7-25-1988)

Sec. 6-311. Proceeds.

All proceeds from such tax shall be used for the purpose of regulating lawful gambling.
(Code 2015, § 5.44(2); Ord. of 4-25-1988; Ord. of 7-25-1988)

Sec. 6-312. State lawful gambling tax return.

In addition to any report required under section 6-310, the licensed organization shall submit to the finance director a copy of the organization's state lawful gambling tax return, together with all schedules attached thereto. Such state lawful gambling tax return and schedules shall be filed at the same time that the return required by the city is filed with the city's finance director.
(Code 2015, § 5.44(3); Ord. of 4-25-1988; Ord. of 7-25-1988)

Sec. 6-313. Local trade area expenditures—Required.

Each licensed organization which conducts lawful gambling activities within the city shall expend 50 percent of its lawful expenditures of funds derived from gambling activities for the direct benefit of citizens living within the local trade area. The term "local trade area" includes the area within the boundaries of school district No. 77.
(Code 2015, § 5.45(1); Ord. of 2-12-1990; Ord. of 6-10-1996; Ord. of 4-24-2000)

Sec. 6-314. Local trade area expenditures—Monthly report.

Each licensed organization which conducts lawful gambling activities shall file with the city finance director, on a monthly basis, a report specifying the amount of the funds expended in the local trade area and the benefits derived by the citizens of the local trade area.
(Code 2015, § 5.45(2); Ord. of 2-12-1990; Ord. of 6-10-1996)

Secs. 6-315—6-331. Reserved.

DIVISION 9. PAWN SHOPS

Sec. 6-332. Statement of policy.

(a) The city council finds that use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to receive and transfer property stolen by others easily and quickly. The city council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers. The city council further finds that the pawn industry has outgrown the city's current ability to effectively or efficiently identify criminal activity related to pawn businesses. The purpose of this division is to prevent pawn businesses from being used as facilities for the commission of crimes, and to ensure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

(b) To help the city better regulate current and future pawn businesses, decrease, and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this division also implements and establishes the required use of a city-approved online property tracking system.
(Code 2015, § 5.51(1); Ord. of 9-8-2003; Ord. of 8-12-2013; Ord. No. O-2022-1128-18, § 5.51(1), 11-28-2022)

Sec. 6-333. Definitions.

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

Billable transaction means every reportable transaction conducted by a pawnbroker is a billable transaction except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.

Pawnbroker means any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulate price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this division shall be applicable.

Reportable transaction means every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, is reportable except:

(1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of the merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.

(2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold or redemption periods have expired.

(Code 2015, § 5.51(2); Ord. of 9-8-2003)

Sec. 6-334. License required.

It is unlawful for any pawnbroker to engage in business as a pawnbroker or otherwise portray the person or business as a pawnbroker unless the pawnbroker has a valid license authorizing engagement in the business. Any pawn transactions made without benefit of a license is void.
(Code 2015, § 5.51(3); Ord. of 9-8-2003)

Sec. 6-335. License fees.

(a) The annual license fee for each premises licensed shall be established by council resolution and provided in the city fee schedule.

(b) A billable transaction fee shall be established by resolution of the city council and provided in the city fee schedule, and shall reflect the cost of processing transactions and other related regulatory expenses as determined by the city council. License holders shall be notified in writing 30 days before any increase in this fee is implemented. Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to pay the billable transaction fee to the city is a violation of this division.
(Code 2015, § 5.51(4); Ord. of 9-8-2003; Ord. of 8-12-2013)

Sec. 6-336. Application.

(a) *Form.* Each application for a license under this division shall be made at the office of the city clerk upon such form as may be prescribed and must be completed by every applicant for a new license or for renewal of an existing license.

(b) *New manager.* When a license holder places a manager in charge of a business, or if the named managers in charge of a license business changes, the license holder must complete and submit the appropriate application within 14 days of the change in managers. This application to change managers must be accompanied with payment of the investigation fee as required by subsection (d) of this section.

(c) *Application execution.* All applications for a license under this division must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

(d) *Criminal investigation.* Each application for a new license or to change managers, required by the provisions of this section, submitted by an applicant shall be accompanied by payment of an investigation fee, as provided in the city fee schedule, if the investigation process is conducted solely within state. If the investigation is conducted outside state, the issuing authority may recover the actual investigation costs not exceeding $5,000.00.
(Code 2015, § 5.51(5); Ord. of 9-8-2003; Ord. of 8-12-2013)

Sec. 6-337. Records required.

(a) *Generally.* At the time of any reportable transaction other than renewals, extensions or redemptions, every license holder must immediately record in English the following information in a computerized record approved by the city:

(1) A complete and accurate description of each item, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

(2) The purchase price, amount of money loaned upon, or pledge therefor.

(3) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

(4) Date, item and place the item of property was received by the license holder, and the unique alpha or numeric transaction identifier that distinguishes it from all other transactions in the license holder's records.

(5) Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including sex, height, weight, race, color of eyes and color of hair.

(6) The identification number and state of issue from any of the following forms of identification of the seller:

a. Current valid state driver's license.

b. Current valid state identification card.

c. Current valid photo identification card issued by another state or province of Canada.

(7) The signature of the person identified in the transaction.

(8) a. Effective 60 days from the date of notification by the city's department of public safety of acceptable video standards, the license holder must also take a color photograph and color video recording that are electronically retained for the duration stipulated below of:

1. Each customer involved in a billable transaction.

2. Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

b. Digital photographs and videos must be maintained in such a manner that can be readily matched and correlated with all other records of the transaction to which they relate. Such digital photographs must be available to the city's director of public safety, or their designee, upon request. The major portion of the digital photograph must include an identifiable facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The license holder must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. The recorded video must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The license holder must inform the person by displaying a sign of sufficient size in a conspicuous place on the premises that he or she is being recorded on video. The license holder must keep the video recording for 90 days.

(b) *Digitized photographs.* Effective 60 days from the date of notification by the city's department of public safety, license holders must fulfill the color photograph requirements in subsection (a)(8) of this section by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction with which they are associated. Notwithstanding that digital images may be captured from required video recordings, this provision does not alter or amend the requirements in subsection (a)(8) of this section.

(c) *Renewals, extensions, and redemptions.* For renewals, extensions and redemptions, the license holder shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

(d) *Inspection of records.* The records must at all reasonable times be open to inspection by the city's department of public safety. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.
(Code 2015, § 5.51(7); Ord. of 9-8-2003; Ord. No. O-2022-1128-18, § 5.51(7), 11-28-2022)

Sec. 6-338. Daily reports to department of public safety.

(a) Effective no later than 60 days after the city's department of public safety notifies license holders of the required use of the online property tracking system; license holders must submit every reportable transaction to the city's department of public safety daily in the following manner: The license holder must provide to the city's department of public safety all reportable transaction information by transferring it from their computer to the online property tacking system. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the city. Any transaction that does not meet the online property tracking specifications must be corrected and resubmitted the next business day. The license holder must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the city's department of public safety.

(b) Billable transaction fees. License holders will be charged for each billable transaction reported to the city's department of public safety.

(1) If a license holder is unable to successfully transfer the required reports by modem, the license holder must provide the city's department of public safety, upon request, printed copies of all reportable transactions along with the video recordings for that date, by 12:00 noon the next business day;

(2) If the problem is determined to be in the license holder's system and is not corrected by the close of the first business day following the failure, the license holder must continue to provide the required reports as detailed in subsection (b)(1) of this section and may be charged a $50.00 reporting failure penalty, daily, until the error is corrected; or

(3) If the problem is determined to be outside the license holder's system, the license holder must continue to provide the required reports in subsection (b)(1) of this section and resubmit all such transactions via modem when the error is corrected.

(4) If a license holder is unable to capture, digitize or transmit the photographs required in section 6-338(a)(8), the license holder must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the city's department of public safety upon request.

(5) Regardless of the cause or origin of the technical problems that prevented the license holder from uploading their reportable transactions, upon correction of the problem, the license holder shall upload every reportable transaction from every business day the problem had existed.

(6) Notwithstanding the provisions of subsections (b)(1) through (3) of this section, the city's department of public safety may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(Code 2015, § 5.51(8); Ord. of 9-8-2003; Ord. of 8-12-2013; Ord. No. O-2022-1128-18, § 5.51(8), 11-28-2022)

Sec. 6-339. Receipt required.

Every license holder must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years. The receipt must include at least the following information:

(1) The name, address and telephone number of the licensed business.

(2) The date and time the item was received by the licensee.

(3) Whether the item was pawned or sold, or the nature of the transaction.

(4) An accurate description of each item received, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

(5) The signature or unique identifier of the license holder or employee that conducted the transaction.

(6) The amount advanced or paid.

(7) The monthly and annual interest rates, including all pawn fees and charges.

(8) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.

(9) The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller.

(10) The identification number and state of issue from any of the following forms of identification of the seller:

a. Current valid state driver's license.

b. Current valid state identification card.

c. Current valid photo identification card issued by another state or province of Canada.

(11) Description of the pledger or seller including approximate sex, height, weight, race, color of eyes and color of hair.

(12) The signature of the pledger or seller.

(13) All printed statements as required by M.S.A. § 325J.04, subd. 2, or any other applicable statutes.

(Code 2015, § 5.51(9); Ord. of 9-8-2003)

Sec. 6-340. Redemption period.

Any person pledging, pawning or depositing an item for security must have a minimum of 60 days from the date of that transaction to redeem the item before if may be forfeited and sold. During the 60-day redemption period, items may not be removed from the licensed location except as provided in section 6-348. License holders are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, or to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the city's department of public safety. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with section 6-338.

(Code 2015, § 5.51(10); Ord. of 9-8-2003)

Sec. 6-341. Holding period.

Any item purchased or accepted in trade by a license holder must not be sold or otherwise transferred for 31 days from the date of the transaction. An individual may redeem an item at any time during the redemption period, excluding Sundays and legal holidays.

(Code 2015, § 5.51(11); Ord. of 9-8-2003; Ord. of 8-12-2013)

Sec. 6-342. Police order to hold property.

(a) *Investigative hold.* Whenever a law enforcement official from any agency notifies a license holder not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to subsection (b) of this section, whichever comes first.

(b) *Order to hold.* Whenever the city's director of public safety, or their designee, notifies the license holder not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the city's director of public safety or their designee. The order to hold shall expire 90 days from the date it is placed unless the city's director of public safety or their designee determines the hold is still necessary and notifies the license holder.

(c) *Order to confiscate.*

(1) If an item is identified as stolen or evidence in a criminal case, the city's director of public safety or their designee may:

a. Physically confiscate and remove it from the shop, pursuant to a confiscation order from the city's director of public safety or their designee; or

b. Place the item on hold or extend the hold as provided in subsection (b) of this section and leave it in the licensed premises.

(2) When an item is confiscated, the person doing so shall provide identification upon request of the license holder and shall provide the license holder the name and telephone number of the confiscating agency, a contact person, and the case number related to the confiscation.

(3) When an order to hold/confiscate is no longer necessary, the city's director of public safety or their designee shall so notify the license holder.

(Code 2015, § 5.51(12); Ord. of 9-8-2003; Ord. No. O-2022-1128-18, § 5.51(12), 11-28-2022)

Sec. 6-343. Inspection of items.

At all times during the terms of the license, the license holder must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in section 6-348, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, merchandise and records therein to verify compliance with this division or other applicable laws.

(Code 2015, § 5.51(13); Ord. of 9-8-2003)

Sec. 6-344. Label required.

License holders must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the license holder's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the city's department of public safety, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

(Code 2015, § 5.51(14); Ord. of 9-8-2003; Ord. No. O-2022-1128-18, § 5.51(14), 11-28-2022)

Sec. 6-345. Prohibited acts.

(a) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any license holder receive any goods from a person under the age of 18 years.

(b) No license holder may receive any goods from a person of unsound mind or an intoxicated person.

(c) No license holder may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid state identification card, or current valid photo driver's license or identification card issued by the state or providence of residency of the person from whom the item was received.

(d) No license holder may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

(e) No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest with any license holder.

(f) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any license holder shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any license holder.
(Code 2015, § 5.51(15); Ord. of 9-8-2003)

Sec. 6-346. Denial, suspension or revocation of license.

Any license issued under this division may be denied, suspended or revoked for one or more of the following reasons:

(1) The proposed use does not comply with any applicable zoning codes.

(2) The proposed use does not comply with any health, building, building maintenance or other provisions of this Code or state law.

(3) The applicant or license holder has failed to comply with one or more provisions of this division.

(4) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct an investigation due to the unavailability of information.

(5) Fraud, misrepresentation or bribery in securing or renewing a license.

(6) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.

(7) Violation within the preceding five years of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(8) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this division.
(Code 2015, § 5.51(16); Ord. of 9-8-2003)

Sec. 6-347. Business at only one location.

A license under this division authorizes the license holder to carry on its business only at the permanent place of business designated in the license. However, upon written request, the city's director of public safety may approve an off-site locked and secured storage facility. The license holder shall permit inspection of the facility in accordance with section 6-344. All provisions of this division regarding recordkeeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of this Code. The license holder must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises that extends for more than six months.
(Code 2015, § 5.51(17); Ord. of 9-8-2003)

Chapter 7

DWELLING UNIT RENTAL

Article I. In General

Sec. 7-1. Purpose and intent.
Sec. 7-2. Definitions.
Sec. 7-3. Owner responsibilities defined.
Secs. 7-4—7-24. Reserved.

Article II. Licensing

Sec. 7-25. License required.
Sec. 7-26. Procedure generally.
Sec. 7-27. License application, fees, reissuance; false statements.
Sec. 7-28. Term; expiration and renewal.
Sec. 7-29. Temporary licenses.
Sec. 7-30. Inspections.
Secs. 7-31—7-48. Reserved.

Article III. Conditions of Licensure

Sec. 7-49. General conditions.
Sec. 7-50. License posting.
Sec. 7-51. Transfer.
Sec. 7-52. Register of occupancy.
Sec. 7-53. Agent required; exceptions.
Sec. 7-54. Refuse removal and recycling.
Sec. 7-55. Conduct on licensed premises.
Sec. 7-56. Training.
Sec. 7-57. Rental density.
Secs. 7-58—7-87. Reserved.

Article IV. Off-Street Parking for Rental Properties

Sec. 7-88. Parking ratio.
Sec. 7-89. Location and design of off-street parking.
Sec. 7-90. Nonconforming off-street parking.
Secs. 7-91—7-108. Reserved.

Article V. Administration and Enforcement

Sec. 7-109. Enforcement authority.
Sec. 7-110. Offender transitional housing.

ARTICLE I. IN GENERAL

Sec. 7-1. Purpose and intent.

(a) The purpose of this chapter is to protect the public health, safety, and the general welfare of the citizens of the city who have as their place of abode rooms furnished to them for payment of a rental charge (including money, services, or other type of consideration) to another. The general objectives include:

(1) To maintain a quality of character and stability of rental dwelling units within the city;

(2) To correct and prevent rental housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health of persons occupying rental dwellings within the city;

(3) To assist in enforcing minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of the occupants of rental dwellings;

(4) To assist in enforcing minimum standards of light and ventilation necessary to health and safety;

(5) To prevent overcrowding of rental dwelling units;

(6) To assist in enforcing minimum standards for the maintenance of rental dwelling units to prevent slums and blight;

(7) To preserve the value of land and buildings throughout the city.

(b) It is the intent of this chapter to establish a permanent mode of protecting and regulating the living conditions of the residents of the city who rent dwelling units and to provide a means for imposing license fees to help the city defray the costs necessary for housing inspections and enforcement of this chapter.
(Code 2015, § 5.42(1), (2); Ord. of 6-29-1998; Ord. of 8-25-2014)

Sec. 7-2. Definitions.

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

Dormitory means a building owned or controlled by an educational institution; or spaces within buildings owned or controlled by educational institutions where group sleeping accommodations are provided; or a series of closely associated rooms without individual cooking facilities, and with common toilet and bathroom facilities.

Dwelling unit means any building structure or enclosure, including any manufactured home, wholly or partly used or intended to be used for living, sleeping, cooking or eating purposes by human occupants, rented or offered for rent by any person to any other persons for use for residential purposes by such other persons. The term "dwelling unit" does not include rest homes, convalescent homes, nursing homes, hotels, motels, dormitories or facilities licensed by the state as institutional occupancies.

Offender transitional housing means a dwelling unit (as defined in this section), dormitory, residential facility, or lodging facility intended, or used principally to provide short-term supervised housing to more than one offender or predatory offender, as defined by state law, who are on supervised release or conditional release, and who are receiving housing assistance, either directly or indirectly, and supervision from the state department of corrections, or designee, or as part of the Minnesota Sex Offender Program, or who are required to live in the dwelling, dormitory, residential facility, or lodging facility as a condition of release and supervision program. The term "offender transitional housing" does not include housing declared by state law to be a permitted single-family residential use under M.S.A. § 462.357, subd. 7.

Related by blood means whole or half relation between a common ancestor or descendant, husband, wife, son, daughter, father, mother, brother, sister, uncle, aunt, niece, nephew, stepchildren, legally adopted children, grandmother, grandfather, state-assigned foster children, first cousin, or any combination of the above persons.

Rent means any consideration paid for the exclusive use of the dwelling unit, including, but not limited to, money, services, or a combination thereof paid or delivered at fixed intervals periodically agreed upon.

Short-term means a period of time not exceeding 12 months or as otherwise established by state law.

Strike means a penalty issued for failing to comply with licensing requirements, city ordinance, or state statute.

Unrelated shall have the same meaning as the term "unrelated individuals," defined in section 10-2; individuals who are not related by blood, marriage, or adoption.
(Code 2015, § 5.42(3); Ord. of 6-29-1998; Ord. of 8-25-2014)

Sec. 7-3. Owner responsibilities defined.

(a) Owners remain liable for violations of duties imposed by this chapter even though an obligation is also imposed on the occupants of the building, and even though the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this chapter.

(b) Buildings, structures and parts thereof shall be maintained in a safe and sanitary condition. The owner or the owner's designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be reinspected.

(c) Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.

(d) Owners shall, when required by this chapter or any other applicable code, ordinance, regulation or statute, furnish and maintain such approved sanitary facilities as required and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent

infestation and, when infestation has taken place, shall be responsible for the extermination of any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling.

(e) Occupants of a dwelling unit, in addition to being responsible for keeping in a sanitary and safe condition that part of the dwelling or dwelling unit or premises which they occupy and control, shall properly dispose of their rubbish, garbage and other organic waste in a manner required by this chapter, or any other applicable code, ordinance, regulation or statute.

(f) Occupants shall, when required by this chapter, or any other applicable code, ordinance, regulation or statute, furnish and maintain approved devices, equipment or facilities necessary to keep their premises safe and sanitary.
(Code 2015, § 13.19(3); Ord. of 6-29-1998)

Secs. 7-4—7-24. Reserved.

ARTICLE II. LICENSING

Sec. 7-25. License required.

(a) It is unlawful for any person, as the owner, manager, or other person having control of any dwelling unit, to lease, rent, offer for rent or lease, or permit to be leased, rented or offered for rent or lease, or permit the occupancy of any dwelling unit within the city without first having obtained a rental license for such dwelling unit as hereafter provided.

(b) A rental license shall be required in the following situations:

(1) A dwelling unit is rented or leased as defined by this chapter; or

(2) A dwelling unit is not occupied by the owner, but is occupied by one or more persons that are unrelated to the owner of the unit; or

(3) A dwelling unit is occupied by the owner and one or more persons unrelated to the owner. An owner occupying a dwelling unit with one unrelated person under the definition of the term "functional family" shall not be required to obtain a rental license provided the property is not rented or leased as defined by this chapter; or

(4) A dwelling is not occupied by the owner, but is occupied by a person related by blood to the owner and one or more persons that are unrelated to the owner.

(c) Residential occupancies shall conform to the standards of section 10-40.

(d) For the purposes of determining occupancy for rental, the following standards shall apply:

(1) A guest may occupy a licensed or unlicensed dwelling unit, provided the guest does not reside in the dwelling unit for more than seven days within a consecutive 30-day period and the guest has a documented permanent residence other than the dwelling unit in which they are considered a guest.

(2) The occupancy of a dwelling unit shall comply with the occupancy restrictions of the residential districts as stated in section 10-40.

a. Residential occupancies of single-and two-family dwelling units in the R-1 and R-2 zoning districts shall be limited to functional family or traditional family as defined in section 10-2.

b. In the R-1 and R-2 zoning districts, single- and two-family dwelling units that were licensed for rental purposes prior to June 28, 1999, may continue the existing use or occupancy, if such use or occupancy was legal at the time the rental license was issued and the rental license has not since lapsed.

(3) Changes or alterations to the dwelling unit are prohibited that would increase the potential occupancy of the dwelling from what was approved when the rental license was issued. Such prohibited changes to the dwelling unit include expanding or adding bedrooms or any other changes that under this chapter or the state building code would result in allowing additional occupants from what was approved at the time the rental license was issued.

(4) In no instance, may more than five individuals or tenants reside in a single-family or two-family dwelling unit unless the occupancy is considered traditional family or functional family as defined in section 10-2. This limitation shall not apply to:

a. State-licensed residential facilities as referenced in M.S.A. § 462.357, subd. 7.

b. Other permitted, conditional, or legal nonconforming uses in the R-1 and R-2 zoning districts.

c. A reasonable accommodation granted by the city manager in order to comply with the Federal Fair Housing Act, 42 USC 45.

(Code 2015, § 5.42(4); Ord. of 6-29-1998; Ord. of 4-10-2006; Ord. of 8-25-2014; Ord. No. 18-1113-11, 11-13-2018; Ord. of 11-13-2006)

Sec. 7-26. Procedure generally.

(a) *Issuance.*

(1) Except as specifically set forth in a particular section of this chapter, all licenses issued pursuant to this article shall be issued by the city clerk upon a determination that all conditions precedent to the issuance or renewal of the license have been met, including the payment of the applicable fees and proof of insurance, if applicable, and the applicant has no outstanding unpaid fees or penalties, or unlicensed rental properties. Such issuance of a license by the city clerk shall include any conditions recommended by other city departments if the license has been referred to such department prior to issuance.

(2) In cases where the applicant is a license holder of another city license that is currently subject to license suspension or revocation, an enforcement action for violation of this Code, unpaid administrative penalties or city utility bills or unpaid or delinquent property taxes, a new license application or transfer of license shall not be approved. In cases where an applicant is an owner or principal of a corporation or partnership which has an interest in property that is currently subject to license suspension or revocation, an enforcement action

related to unlicensed rental properties, violations of this Code, unpaid administrative penalties or unpaid city utility bills, or delinquent property taxes, a new license application or a transfer of license shall not be approved.

(b) *Appeal.* A person aggrieved by the denial of a license by the city clerk or the imposition of terms in connection with the granting of a license may appeal such action to the city council. In order to appeal the decision, the applicant for the license must file a written notice of appeal with the city clerk within five days of being informed of the decision to deny the issuance of a license or the terms upon which the license will be issued. The city council will then review the decision to determine whether or not the action was correct. The city council may, in connection with its review of the action either affirm, reverse or modify the actions. The applicant shall be advised by mail of the date and time that the council will hear the applicant's appeal.

(c) *Fees.* License fees shall be established in the amount provided in the city fee schedule.

(d) *Duplicate license.* The city clerk shall, without city council action, issue a duplicate for any license issued pursuant to this article upon payment of a duplicate license fee, the amount of which shall be established by resolution of the city council and provided in the city fee schedule. Each duplicate license shall be clearly marked as a duplicate.

(e) *Refusal.* The city council may, in the sole discretion of the council and for any reasonable cause, refuse to grant any application for or renewal of any license.

(f) *Revocation.*

(1) The city council may either suspend, not to exceed 90 days, or revoke any license issued pursuant to this article, for good cause, including, but not limited to, a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to the operation of the licensee. No suspension or revocation shall take effect until the licensee has been afforded the opportunity for a hearing provided by the city council.

(2) The licensee must make a written request for a hearing to the city clerk within five days of the date of the notice of the city's intent to recommend suspension or revocation of the license. The written request must state the license holder's specific objection to the suspension or revocation and be accompanied by payment of a fee as provided in the city fee schedule to be used to offset the costs of the hearing.

(g) *Automatic nonrenewal or revocation.*

(1) No license issued or renewed pursuant to this article shall be deemed valid until all license fees have been fully paid and any required insurance provided. Any license issued or renewed upon payment by a check shall be deemed conditionally issued until the city has received final credit to its bank account in the full amount of such license fees. In the event the check tendered by the licensee is dishonored or refused by any financial institution, such provisionally issued license shall be deemed void as of the date of the check's dishonor or refusal by the financial institution.

(2) The issuance of a license under this article shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Sec. 7-27. License application, fees, reissuance; false statements.

(a) An application for a rental license shall be made on a form provided by the city and filed with the city clerk by the owner or the owner's agent and shall be accompanied by a license fee in the amount provided in the city fee schedule. Incomplete applications may be rejected.

(b) New applications will be forwarded for review of zoning and parking requirements, and inspection by the city inspector. Failure to complete the necessary code requirements within 60 days from the date of the initial inspection will result in the application being withdrawn and voided unless a plan of corrective action is completed, submitted, and approved

(c) Reissuance of a rental license for any property with a cancelled license shall be processed as if the property were a new license. Such issuance will require the property to comply with all codes in effect at the time of the new license application.

(d) It is unlawful for any person to intentionally make any false statement or to intentionally omit any required information in the completion of any application form. Any such false statement or omission shall render the application, and any license issued pursuant thereto, invalid and of no effect.

(Code 2015, § 5.42(5), (6); Ord. of 1-11-1982; Ord. of 11-24-1986; Ord. of 12-11-1989; Ord. of 11-27-1995; Ord. of 6-29-1998; Ord. of 10-13-2003; Ord. of 8-25-2014)

Sec. 7-28. Term; expiration and renewal.

(a) Each license issued pursuant to this article shall have a term of three years and shall expire on December 31. Renewal of licenses will not occur unless the property has been inspected and approved by the city inspector within 360 days preceding the expiration date of the license.

(b) Payment of license fees in the amount provided in the city fee schedule is due on or before the date of expiration of the license. All rental licenses, for which payment of license fees is over 30 days past due shall be automatically cancelled.

(Code 2015, § 5.42(7); Ord. of 6-29-1998; Ord. of 9-28-1998; Ord. of 8-25-2014)

Sec. 7-29. Temporary licenses.

(a) Temporary rental license may be granted by the city for unlicensed properties to an owner of property for a period not to exceed six months for the following circumstances:

(1) The property is being sold and the owner and the owner's family are not residing at the property.

(2) The owner and the owner's family are not residing at the property, and the occupants are providing a caretaking function for the property.

(b) Six months from the date of issuance, the temporary rental license shall expire and is not subject to renewal, unless otherwise approved by the city council. The council may approval additional extensions provided the property is being actively marketed for sale. Temporary rental licenses are not transferable to new owners.
(Code 2015, § 5.42(21); Ord. of 6-9-2008; Ord. of 3-23-2009; Ord. of 8-12-2013; Ord. of 8-25-2014)

Sec. 7-30. Inspections.

(a) *Generally.* Upon receipt of an application for any dwelling unit rental license, the city clerk shall forward a copy of such application to the city inspector, whereupon the city inspector shall, within ten days after receiving such application, inspect the property to be licensed to determine whether such property complies with the provisions of applicable codes and statutes. No rental license shall be issued by the city unless the property complies with the provisions of this chapter and city housing maintenance regulations which pertain to such dwelling unit, including applicable provisions set forth in chapter 5.

(b) *Requirements.* During inspections, the city inspector shall determine if rental units meet the following requirements:

(1) *Window screens.* Screen units are required on all openable windows, with the exception that screens shall not be required on any designated egress window. Screens shall be maintained in good repair.

(2) *Double glazing.*

a. All windows in all residential units shall be double-glazed during the period of November 1 through April 1 each year. Double glazing shall consist of either manufactured sash panels with two panes of glass in a sealed unit or a single-pane sash unit and a removable single glass storm window or combination window.

b. All glazing shall be maintained in a good repair.

c. Nothing in this subsection (b)(2) shall preclude any owner from installing and maintaining glazing of a higher efficiency rating or having more than two glass panels.

(3) *Appliances.*

a. Where provided with a stove for cooking food, or a refrigerator or dishwasher or any other appliance, each appliance shall be operational and functioning safely. Any appliance must be properly installed with all necessary connections for safe, sanitary and efficient operation.

b. Such appliances need not be installed when the dwelling unit is not occupied.

c. If a rental occupant is required to furnish a stove or refrigerator, sufficient space and adequate functioning connections for the installation and operation of stove and refrigerator must exist. A rental license holder is not required to provide both gas and electrical connections for stoves and clothes dryers; however, they are required to provide either a gas or an electrical connection. The decision on gas or electricity as the primary energy source remains the sole right of the rental license holder. Rental

license holders are not required to provide water service for automatic icemakers under this subsection. The term "gas and electrical connection" refers to the primary source of energy for primary operation of the appliance and does not mean the secondary energy source (generally 110-volt electrical) for operation of the appliance. Nothing in this subsection (b)(3) precludes negotiation between the tenant and landlord for installation and maintenance of a second primary energy source.

(4) *Egress and exit exceptions.*

a. Dwelling units may be provided with a secondary means of egress/escape that does not conform to the strict definition of the term "means of egress," but which does meet the intent of providing an alternative way out of a building. Alternative secondary means of egress/escape shall be one of the following:

1. A door, stairway, passage, or hall providing a way of unobstructed travel to the outside of the dwelling at street or ground level that is independent of and remote from the primary means of egress/escape. The door, stairway, passage or hall must not be connected in any way to any door, stairway or passage forming the primary means of egress/escape.

2. A passage through an adjacent nonlockable space independent of and remote from the primary means of egress/escape to any approved means of egress/escape and the dwelling unit was licensed prior to December 1, 2003.

b. A secondary means of egress/escape is not required if the dwelling unit is protected by an approved automatic sprinkler system in accordance with National Fire Protection Association (NFPA) 13 or NFPA 13R and the dwelling unit was licensed prior to December 1, 2003.

(5) *Egress windows.*

a. *Exceptions.*

1. Any window, in any sleeping room, of any owner-occupied residential property constructed before the date of adoption of the ordinance from which this subsection is derived that does not meet the minimum 5.0 square feet of clear openable area and minimum width of at least 20 inches and minimum height of at least 24 inches, and which does not exceed the maximum floor to window height of 48 inches, is allowed to continue such nonconforming use.

2. Any window, in any sleeping room, of any licensed rental unit constructed and licensed before the date of adoption of the ordinance from which this subsection is derived, and whose license is valid as of said adoption date, that does not meet the minimum 5.0 square feet of clear openable area and minimum width of at least 20 inches and minimum height of at least 24 inches, and which does not exceed the maximum floor to window height of 48 inches, is allowed to continue such nonconforming use, provided:

(i) The sleeping room has at least two avenues of egress/escape; and

(ii) All avenues of escape must be fully openable or operable from the inside without need of special tools or methods; and

(iii) All avenues of egress/escape shall be maintained in an operable and unobstructed state at all times; and

(iv) The license of any rental unit having egress windows that do not meet minimum dimensional requirements shall have their rental license modified to contain the terms: "WINDOWS WITHIN SOME OR ALL OF THE SLEEPING AREA(S) OF THIS RENTAL UNIT DO NOT COMPLY WITH HOUSING CODE STANDARDS FOR EGRESS IN CASE OF EMERGENCY"; and

(v) The rental license holder shall provide each tenant, or prospective tenant, of any unit, the windows of which do not comply with minimum code standards, a copy of the current rental license with the notice of noncompliance noted thereon. In lieu of providing a copy of the rental license, any rental license holder who uses a written lease may alternatively provide tenants and prospective tenants with the notice outlined in subsection (b)(5)a.2.(iv) of this section by including the language in the lease.

3. An egress window is not required in a sleeping room if the dwelling unit is protected by an approved automatic sprinkler system in accordance with National Fire Protection Association (NFPA) 13 or NFPA 13R and the dwelling unit was licensed prior to December 1, 2003.

b. *Notice to owners of licensed property at time of license renewal.* Owners of nonconforming licensed rental property shall be contacted by the city manager, or their designee, at the time of license renewal and reminded of the nonconforming use. The city manager, or their designee, shall encourage owners of nonconforming units to modify their egress windows to meet minimum code standards.

c. *Requirements for egress windows for new construction, new rental licenses and licensure following lapse or revocation.* Egress windows in any sleeping room in all newly constructed residential property, or in any rental property first licensed or relicensed following revocation or lapse of license, after the date of adoption of the ordinance from which this subsection is derived must meet the minimum requirements of the state building code in effect on the date of construction, first licensure or relicensure.

(6) *Fire protection equipment.*

a. *Fire extinguishers in licensed rental units.* All licensed rental units shall be provided with a functional, multi-purpose ABC fire extinguisher that shall be installed in an accessible location, preferably near an exit, with the top of the fire extinguisher not more than 60 inches above the floor. One of the following extinguishers is acceptable:

1. A minimum of a 1A10BC fire extinguisher in each individual dwelling unit; or

2. A minimum of one 2A10BC fire extinguisher on each floor, in common areas adjacent to dwelling units. The travel distance from the entrance door of any

apartment to the extinguisher cannot exceed 50 feet as measured in a commonly used path. The path cannot traverse more than three stair steps in the common area. The extinguisher must be accessible to all tenants at all times.

b. *Maintenance of fire extinguishers in licensed rental units.*

1. All fire extinguishers must be checked at least annually by the rental license holder to ensure they are fully charged and operable. Extinguishers found to be inoperable must be repaired by a professional fire extinguisher service company or replaced.
2. All ABC fire extinguishers must be service tested by a professional fire extinguisher service company every six years or replaced.

c. *Penalty for rendering fire extinguishers inoperable or ineffective on rental property.* Any person who shall do any of the following is guilty of a misdemeanor:

1. Discharge a fire extinguisher and fail to notify, within 24 hours, the license holder, or his or her agent, of the need for recharging the fire extinguisher; or
2. Intentionally discharge a fire extinguisher for any purpose other than the controlling of a fire; or
3. Intentionally remove any fire extinguisher required under this chapter; or
4. Intentionally render inoperable, in any other manner, any fire extinguisher required under this chapter.

d. *Other fire protection features.* Sprinklers, fire alarms and other fire protection systems, when used, must be properly installed and maintained as required by the building and fire codes.

e. *Smoke detectors.*

1. Smoke detectors are required by the fire code in all dwelling units used for sleeping purposes within the city, regardless of date of construction. Smoke detectors shall be installed and maintained in compliance with NFPA Standards.
2. Working smoke detectors are required in the following locations:
   (i) Existing residential properties with or without a rental license.
   (ii) On the ceiling or wall at a point centrally located in the corridor or area giving access to each separate sleeping area.
   (iii) Where sleeping areas are on an upper level, the detector shall be placed in the center of the ceiling directly above the stairway.
   (iv) In the basement of any dwelling units having a stairway that opens from the basement into the dwelling.
3. Detectors may be battery-operated, hardwired, or both.
4. Exception. With the written approval of the inspector, small apartments/dwelling units may have required smoke detectors placed inside of bedrooms rather than outside of bedrooms when the required placement will result in excessive false alarms.

5. New construction and rental property licensed after the date of adoption of the ordinance from which this section is derived shall have:
   (i) One working smoke detector on each level of the residence.
   (ii) One working smoke detector adjacent to each bedroom or group of bedrooms on each floor.
   (iii) One working smoke detector in each sleeping room.
6. When more than one smoke alarm is required to be installed within an individual dwelling unit, the alarm devices shall be interconnected with battery backup in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
7. All smoke alarms shall be listed and installed in accordance with the provisions of this chapter and the household fire warning equipment provisions of NFPA 72.

(c) *Authority of inspectors in special circumstances.* The city manager, or their designated inspector under this chapter, shall have the authority to order installation of necessary egress windows, secondary means of escape or fire sprinklers in those instances where:

(1) No secondary egress exists at all; or

(2) The egress that exists is so small or configured in such a manner to not allow egress under any circumstance.

(Code 2015, §§ 5.42(10), 13.08(5), (6), 13.09(4), 13.14(1)—(4), (8), 13.16(1)—(5); Ord. of 6-29-1998; Ord. of 10-27-2003; Ord. of 8-12-2013; Ord. of 8-25-2014)

Secs. 7-31—7-48. Reserved.

ARTICLE III. CONDITIONS OF LICENSURE

Sec. 7-49. General conditions.

The conditions of licensure shall apply to all licenses issued pursuant to this chapter. No license shall be issued unless the rental unit complies with the provisions of this chapter and all other applicable laws and regulations, in addition to all fees being submitted.

Sec. 7-50. License posting.

(a) Licenses issued pursuant to this chapter are not required to be posted on the premises for which the license is issued. Every license holder or agent shall, upon request, provide a copy of the current license to any tenant or prospective tenant. In the case of a written lease, the license holder or agent shall include, at a minimum, the number of the current rental license in the lease agreement.

(b) Near the exterior entrance to a rental unit that is not owner-occupied, an informational notice shall be posted in a conspicuous place indicating the name, e-mail address and telephone number of the owner or managing agent.

(Code 2015, § 5.42(8); Ord. of 6-29-1998; Ord. of 8-25-2014)

Sec. 7-51. Transfer.

If there is a change in ownership of a rental unit, the new owner shall apply for a transfer of the license within 30 days of the change and pay the required transfer fee. If the rental unit is sold pursuant to a contract for deed, the purchaser shall be responsible for applying for the license transfer and providing proof the property has been recorded of said contract for deed from the county recorder's office. Failure to make application within the specified time limit will result in the automatic cancellation of the license. A transfer inspection is not required, provided the property has had an approved inspection within 365 days preceding the transfer application.
(Code 2015, § 5.42(9); Ord. of 6-29-1998; Ord. of 8-12-2013; Ord. of 8-25-2014)

Sec. 7-52. Register of occupancy.

Each rental license holder, or his or her agent, shall maintain a register of occupancy for each dwelling unit, which register shall be available for examination by city officials, and shall contain the following information:

(1) The address of the dwelling unit;

(2) The number of bedrooms in the dwelling unit;

(3) The names of the current tenants of the dwelling unit; and

(4) The telephone numbers of the current tenants of the dwelling unit.
(Code 2015, § 5.42(11); Ord. of 6-29-1998; Ord. of 8-25-2014)

Sec. 7-53. Agent required; exceptions.

(a) License holders who do not reside within a 30-mile radius of the Veteran's Memorial Bridge shall identify a managing agent or contact person who resides within that area and who has the authority to act for the owner. It shall be the responsibility of the owner or owner's agent to provide and maintain updated contact information, including address, telephone number, and e-mail, for receipt of all notices, orders, or other correspondence relating to the licensed property.

(b) This section shall not apply to any hotel or motel room or facility licensed by the state, nor to any dormitory owned or operated by an educational institution.

(c) This section shall not apply to hospitals, nursing homes, or other long-term care facilities licensed by the state, nor shall this section apply to student housing on the campus of a post-secondary school. This section shall apply to state-licensed residential facilities licensed under M.S.A. ch. 144D or lodging establishments with special services licensed under M.S.A. ch. 157.
(Code 2015, § 5.42(12); Ord. of 6-29-1998; Ord. of 8-12-2013; Ord. of 8-25-2014)

Sec. 7-54. Refuse removal and recycling.

(a) License holders shall provide refuse and garbage removal service, whereby refuse and garbage shall be removed from the premises at least once every seven days.

(b) License holders shall provide recycling service. Buildings containing three or more units must provide recycling services for a minimum of four broad material types (i.e., paper, plastic, metal or glass).

(c) Single-family or duplex rental units shall provide a curbside recycling bin to each unit. Buildings containing three or more units shall provide and maintain on the premises an adequate number of rigid, nonabsorbent, covered containers for the storage of all recyclable materials. The containers must be emptied at least once per month.
(Code 2015, § 5.42(14); Ord. of 8-9-1993; Ord. of 6-29-1998; Ord. of 8-25-2014)

Sec. 7-55. Conduct on licensed premises.

(a) The license holder shall be responsible to cause persons occupying the dwelling unit to conduct themselves in such a manner as to not cause the premises to be disorderly. The term "disorderly," as used in this subsection, encompasses illegal sale, distribution, or use of alcoholic beverages or controlled substances and conduct that would violate M.S.A. § 609.705 (unlawful assembly), M.S.A. § 609.715 (presence at unlawful assembly), M.S.A. § 609.72 (disorderly conduct), or M.S.A. § 609.33 (disorderly house).

(b) The license holder shall be responsible for maintaining the dwelling unit and the licensed property so that a nuisance condition, as defined by this Code or a violation of chapter 10 is not allowed or permitted to exist occur, remain upon or be in any license property.

(c) The police or city inspector shall be charged with the responsibility of enforcing subsection (a) of this section.

(d) Upon determination by the police or city inspector that the licensed premises were used in a disorderly manner, or that a nuisance condition or violation of section 7-30 exists, the police or city inspector shall notify the license holder by regular mail of such violation and direct the license holder to take steps to prevent further violations. Additional violations within a 12-month period from the first instance may require that the license holder participate in problem solving conference and a review of the license by the city council pursuant to this subsection and subsection (e) of this section.

(e) If another instance of disorderly use of the premises occurs within 12 months of an incident for which notice in subsection (d) of this section was given, the license holder shall be notified of the instance of disorderly use and shall also be required to participate in a problem solving conference (PSC), scheduled and conducted by the city manager or designee. The purpose of the PSC shall be to develop, by consensus, a plan of action to reasonably ensure that future incidents will not occur at the premises.

(f) If another instance of disorderly use of the premises occurs within a 12-month period after receipt of notices as pursuant to subsections (d) and (e) of this section, the dwelling unit rental license may be revoked or suspended for such dwelling unit. Such suspension or revocation may be for all units in a given building or complex of buildings. If the notice of violation has been with respect to a common area of a building or complex of buildings, then the license as to all units in such building or complex of buildings may be suspended or revoked. Upon suspension or revocation, a license

holder shall pay to the city a reinstatement fee for each unit relicensed for the first unit, and for each additional unit as provided in the city fee schedule. A suspension may be stayed subject to payment of the applicable reinstatement fees and no further violations of this section for a period of time.

(g) No suspension or revocation shall be imposed where the instance of disorderly use of the premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given by the license holder to a tenant to vacate the premises where the disorderly use was related to and occurring in the unit for which eviction proceedings were undertaken or notice to vacate was given. Eviction proceedings shall not be a bar to sanctions, however, unless they are diligently pursued by the license holder.

(h) All written leases for licensed premises executed after June 1, 1983, shall contain a clause providing that conduct which would be violative of subsection (a) of this section shall constitute a material breach of the lease and grounds for termination of such lease.

(i) It shall be irrelevant to proceedings hereunder that the license holder or others were not criminally prosecuted or were acquitted of criminal charges for the incidents serving as the basis of the suspension or revocation.

(j) The license holder, or his or her agent, is required to inform all prospective tenants of the number of disturbance notices pending against the licensed property and the potential effect of additional disturbances.

(Code 2015, § 5.42(15), (17); Ord. of 4-25-1983; Ord. of 3-22-1993; Ord. of 6-29-1998; Ord. of 10-27-2003; Ord. of 2-23-2009; Ord. of 8-12-2013; Ord. of 8-25-2014)

Sec. 7-56. Training.

The city shall offer rental property training sessions, and all license holders and their agents will be invited to attend.

(Code 2015, § 5.42(16); Ord. of 6-29-1998)

Sec. 7-57. Rental density.

Not more than 25 percent (rounded up) of the lots on any block shall be eligible to obtain a rental license or to be licensed as a rental property.

(1) When determining the number of eligible lots on a block for rental license purposes, the number shall be the lowest number that results in 25 percent of the residential lots being rental. The following table indicates how many lots are able to be licensed as a rental property based on the number of lots that exist in a block:

Lots	*Rental*	*Lots*	*Rental*	*Lots*	*Rental*	*Lots*	*Rental*	*Lots*	*Rental*
1—4	1	25—28	7	49—52	13	73—76	19	97—100	25
5—8	2	29—32	8	53—56	14	77—80	20		
9—12	3	33—36	9	57—60	15	81—84	21		
13—16	4	37—40	10	61—64	16	85—88	22		
17—20	5	41—44	11	65—68	17	89—92	23		
21—24	6	45—48	12	69—72	18	93—96	24		

In cases in which one portion of the block is not subject to the application of this section, only the affected portion of the block is subject to this regulation.

(2) The following shall apply to the determination of eligible lots:

a. For the purposes of this subsection, the term "block" means an area of land enclosed within the perimeter of streets, watercourses, railroad right-of-way; public parks, municipally owned lands, and city boundaries, unless otherwise depicted on the map attached to the ordinance from which this section is derived. The map depicts the boundary of blocks for the purpose of establishing the number of lots in a block.

b. This subsection (2) shall apply to legally conforming lots of record and legally nonconforming lots of record, as defined in chapter 10, in existence at that time of the effective date of the ordinance from which this section is derived or approved by new subdivision of unplatted and undeveloped property after the effective date of the ordinance from which this section is derived. For the purposes of this subsection, lots of record may also be referred to as "properties," "property," or "lots."

(3) For the purposes of this section, the following shall apply:

a. The council hereby adopts the map attached to the ordinance from which this section is derived that depicts the area of application, and the boundary of blocks. The map may be amended by city council resolution and without public hearing.

b. Properties licensed for rental purposes on the effective date of the ordinance from which this section is derived shall be included in the calculation of the number of permitted rental properties in a defined block.

c. If the number of rental properties equals or exceeds the permitted number of rental properties per defined block on the effective date of the ordinance from which this section is derived, no additional rental licenses shall be approved for the block. Existing rental licenses may be renewed and transferred per section 7-27; however, should a rental license not be transferred or renewed, or if the rental license is revoked or lapses, the rental license shall not be reinstated unless in conformance with this subsection and other applicable sections of this chapter.

d. Temporary rental license issued per section 7-29 shall be exempt from this section.

e. Rental licenses for state-licensed residences shall be exempt from this section. If the property is no longer licensed by the state, a new rental license application shall be submitted and reviewed for compliance with this section and other applicable sections of this chapter.

f. In the office-residential district located within the city center planning area, as defined in the adopted city center renaissance plan, a rental license may be issued to a lot within a block that exceeds the 25 percent permitted number of rental licenses, provided the ground floors of all principal and accessory buildings on the lot, and any

other floors below the ground floor, are occupied and used for a non-rental permitted or conditional use and the rental use of the property is confined to floor areas located above the ground floor.

(Code 2015, § 5.42(20); Ord. of 6-9-2008; Ord. of 3-23-2009; Ord. of 8-25-2014)

Secs. 7-58—7-87. Reserved.

ARTICLE IV. OFF-STREET PARKING FOR RENTAL PROPERTIES

Sec. 7-88. Parking ratio.

All new rental units licensed after the effective date of the ordinance from which this article is derived shall provide off-street parking according to the following:

(1) *One- and two-family dwellings in R-1 and R-2 districts.* For rental units licensed after the effective date of the ordinance from which this article is derived, two off-street parking stalls shall be provided for each dwelling unit.

(2) *One- and two-family dwellings in R-3, R-4, and OR districts.*

a. For rental properties licensed after the effective date of the ordinance from which this article is derived, off-street parking spaces shall be provided for each dwelling unit based on the following ratio of square footage of sleeping rooms to required parking stalls:

Square Footage	*Parking Stalls*
70 to 119	1
120 to 169	2
170 to 219	3
220 to 269	4
270 and greater	5

b. For a one-family dwelling, not less than two off-street parking stalls shall be provided and not more than five off-street parking stalls shall be required. For a two-family dwelling, not less than four parking stalls shall be provided and not more than ten parking stalls shall be required.

(3) *Multiple-family dwellings in R-3 districts.*

a. For rental properties licensed after the effective date of the ordinance from which this article is derived, off-street parking spaces shall be provided for each dwelling unit based on the following ratio of square footage of sleeping rooms (each bedroom is considered separately) to required parking stalls, plus one guest parking stall per unit:

Square Footage	*Parking Stalls*
70 to 119	1
120 to 169	2
170 to 219	3

Square Footage	*Parking Stalls*
220 to 269	4
270 and greater	5

b. For multiple-family dwellings, not less than three off-street parking stalls shall be provided and not more than six off-street parking stalls shall be required per unit.

(4) *Multiple-family dwellings in R-4, OR, B-1 and B3 districts.* For rental properties licensed after the effective date of the ordinance from which this section is derived, two off-street parking spaces shall be provided for each dwelling unit.

(Code 2015, § 13.18(1); Ord. of 11-8-1999; Ord. of 12-9-2013)

Sec. 7-89. Location and design of off-street parking.

All new rental units licensed after the effective date of the ordinance from which this article is derived shall provide required off-street parking in conformance with the following:

(1) In R-1 and R-2 zoning districts, all required off-street parking stalls shall be provided on the zoning lot occupied by the one- or two-family dwelling. In all other zoning districts, the required off-street parking stalls may be provided within 500 feet of the zoning lot.

(2) Private and public sidewalks, boulevards, and other portions of the public right-of-way, shall not be used to satisfy off-street parking requirements.

(3) For one- and two-family dwellings, all off-street parking stalls, enclosed or unenclosed, shall have minimum dimensions of eight feet by 18 feet, exclusive of required drives and accesses.

(4) Multiple-family dwellings shall provide parking stalls, which conform to the minimum dimensional requirements, recommended by the city manager and as adopted in chapter 10.

(5) Tandem parking. A tandem parking space has a minimum dimension of eight feet by 36 feet and is used for parking not more than two vehicles. Where specifically allowed in the following, tandem parking stalls shall have full and direct access to a public right-of-way and the access shall not be obstructed by a structure or another required parking stall.

a. In R-1 zoning districts, tandem parking arrangements shall not be allowed to satisfy off-street parking requirements. However, for a one-family dwelling, the unenclosed parking space located immediately adjacent to the entrance of a garage may be considered one off-street parking space for the purposes of satisfying the off-street parking requirements, provided the space has a minimum dimension of eight feet by 18 feet, and conforms to all other regulations. The enclosed garage space may also be considered one off-street parking stall for the purposes of satisfying the parking requirements, provided the enclosed parking space has a minimum dimension of eight feet by 18 feet.

b. In all other residential zoning districts, tandem parking arrangements may be used to satisfy off-street parking requirements for one- and two-family dwellings. The parking stalls shall not obstruct any street, alley, or fire lane.

(6) Not more than 35 percent of the required front or rear yards shall be used for parking or driving surfaces. The side yard may not be used to satisfy required off-street parking. However, for one- or two-family structures constructed before 1939, the side yard may be used for off-street parking, provided an existing driveway or parking area is located in the side yard and the property is not located in an R-1 zoning district.

(7) All gravel driveway and parking surfaces shall be hard-surfaced with concrete or bituminous within one year after the issuance of a new rental license. Acceptable hard surfacing does not include recycled asphalt or recycled concrete. Failure to hard surface within one year shall result in the revocation of the rental license.

(8) Off-street parking areas shall comply with all other requirements of this chapter, including, but not limited to, drainage, landscaping, lighting, and maintenance.

(Code 2015, § 13.18(2))

Sec. 7-90. Nonconforming off-street parking.

The following shall apply to licensed rental properties within the city:

(1) Rental units licensed prior to the adoption of the ordinance from which this article is derived shall be required to provide additional off-street parking for the purpose of satisfying the requirements of this section, if adequate off-street parking spaces are not provided for the occupants. This requirement shall only apply to rental properties containing yard areas that may be used for additional parking in conformance with the location and design regulations of section 7-89.

(2) Parking surfaces that are not hard-surfaced in conformance with this article shall be hard surfaced in conformance with this article no later than three years from the date an order is issued by the city manager, or designee. The hard surfaced parking area shall conform to the standards of section 10-1619, unless the city manager, or designee, grants a variance or modification under chapter 5, article II, division 3.

(Code 2015, § 13.18(3); Ord. of 6-29-1998; Ord. of 2-14-2005)

Secs. 7-91—7-108. Reserved.

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

Sec. 7-109. Enforcement authority.

The city manager, or designee, is hereby authorized and directed to enforce all of the provisions of this chapter. For such purposes, they shall be known and appointed as city inspectors having the authority to issue notices of violation, issue criminal citations for violations of this chapter, issue

administrative penalties for violations of this chapter, issue orders for occupants to vacate a dwelling unit found to be in violation of this chapter, and order suspension of city services for properties found to be in violation of this chapter.

(1) Owners and occupants of dwelling units that are found to be in violation of this chapter shall be issued a notice and order. The notice and order shall contain:

a. The street address or a legal description sufficient for identification of the premises upon which the building is located.

b. A statement that the city manager, or their designee, has found the building to be in violation of this chapter with a brief and concise description of the violations.

c. A statement identifying what steps shall be taken to bring the property into compliance with this chapter.

d. A statement that the dwelling unit must be vacated within 30 days from the date of the order if the property is not brought into compliance or vacated within 30 days from the date of the notice and order that the city manager or designee:

1. May impose administrative penalties as established pursuant to section 2-74 and by the city council;

2. May charge the owner, agent, or occupants with a criminal violation;

3. May suspend or terminate city utility services to the property to the extent allowed under state law; and

4. May proceed to cause the work to be done and charge the costs thereof against the property or its owner.

(2) The notice and order may be served by personal service or United States Postal Service to the owner or agent as determined by county land records. Occupants may be served by personal service of United States Postal Service to at least one occupant of the dwelling unit. If the owners or occupants refuse personal service or mailed service through the United States Postal Service, the notice and order may be posted on the property.

(3) Right of entry. When it is necessary to make an inspection to enforce the provisions of this chapter, or when the city manager or designee has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter, they may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that, if such building or premises is occupied, credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, they shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the city inspectors shall resort to the remedies provided by law to secure entry.

a. When scheduling rental licensing inspections pursuant to this Code, the city manager or their designee will seek the consent of the owner of the property (if not already received) to inspect those areas outside of dwelling units rental that are not accessible to the general public (such as storage or mechanical rooms) and to unrented dwelling units, and the consent of the primary tenant of the rental dwelling unit (if not already

received) to inspect that unit. If the property owner demonstrates to the satisfaction of the city manager or designee that one or more tenants have consented in writing to the inspection of their units, individual contacts by the city with those tenants may be deemed unnecessary.

b. If the city is unsuccessful in securing consent for an inspection pursuant to this section, the city shall seek permission, from a judicial officer through an administrative warrant, for its enforcement officer or his or her agents to conduct an inspection. Nothing in this chapter shall limit or constrain the authority of the judicial officer to condition or limit the scope of the administrative warrant.

c. The scope of a licensing inspection shall be limited to what is necessary to determine, in accordance with this section, whether the unit and its premises conform to this Code. This shall not preclude the city manager or their designee from relying upon observations from a licensing inspection in seeking one or more of the remedies provided in chapter 2, article III, or chapter 5.

d. A licensing inspection must be scheduled during ordinary business hours (or as otherwise arranged with the owner or tenant). Owners and their agents, and tenants, may, at their option, request that licensing inspections take place only when they are present, so long as the request identifies at least one date or time within the two weeks following the date of the request when the requesting party agrees to be present.

e. The information regarding the condition of the unit or its occupants that inspectors retain after recording it in any inspection logs or forms shall be limited to descriptions of conditions constituting a violation of the applicable Code provision. Inspectors may record a list of conditions that the landlord or tenant is encouraged to repair or change, but which do not constitute a violation of this Code, and provide the list to the landlord or tenant.

f. Refusal to reasonably grant access may result in administrative penalties set forth in this section or be grounds for rejection or suspension of a rental license subject to the applicable appeal process.

g. The city manager or their designee may enter, without permission, if a public safety emergency exist.

(4) Administrative penalties for failure to allow inspection. The city council shall establish administrative penalties for intentional failure, or failure without good cause, to appear for scheduled rental inspections or reinspections or for intentional avoidance or delay in scheduling inspections when requested. Administrative penalties may also be imposed for failure to correct code violations after proper notice. Administrative fees shall be assessed in accordance with a schedule approved by the city council. Administrative penalties are in addition to any criminal charges and/or fines. Appeals of any order or administrative penalty shall be handled as outlined in the administrative hearing procedures.

(5) Confidentiality of complainant's names. The identities of any person filing a complaint about violations of state law or local ordinance concerning the use of real property, and any

information that would identify such person, is classified as confidential under M.S.A. § 13.44. No employee or agent of the city shall release or reveal such information except by court order.

(6) Penalty for retaliation against complainant. It is a misdemeanor for any person to take retaliatory action against, harass or intimidate any person who makes a good faith complaint against real property within the city.

(7) Penalty for filing false or malicious complaint. It shall be a misdemeanor for any person to file a false or malicious complaint of violations of state law or local ordinance concerning the use of real property.

(Code 2015, §§ 5.42(18), 13.06(5)—(8); Ord. of 6-29-1998; Ord. of 4-10-2006; Ord. of 8-25-2014)

Sec. 7-110. Offender transitional housing.

(a) *Purpose.*

(1) In order to reduce the likelihood of recidivism; provide for the public safety; provide protection and security for crime victims; maintain neighborhood stability; re-integrate former offenders into the mainstream, law-abiding community; prevent homelessness among returning offenders; and facilitate support and supervision for offenders, the city finds it desirable to provide for locations within the city where offender transitional housing can be established subject to the limitations of this chapter.

(2) In addition to subsection (a)(1) of this section, the offender transitional housing shall comply with all other provisions of this chapter regarding rental licensing requirements. If there is a conflict between this section and another provision of this chapter, the more restrictive provision shall prevail.

(b) *Separation and concentration in zoning districts.*

(1) Offender transitional housing may be established in a zoning district that allows residential occupancy and only on a parcel that is at least as far as the distances indicated in the table below from another existing, or approved but not yet constructed, offender transitional housing use in any zoning district:

Zoning Designation Separation Required	*Separation Required*
R-1 and special districts and PUDs with underlying R-1 zoning	≥1,000 feet
R-2 and special districts and PUDs with underlying R-2 zoning	≥800 feet
All other residential districts	≥600 feet
All other zoning districts	≥500 feet

(2) Concentration in residential zones. In residentially zoned areas (R-1 through R-T and special districts and PUDs with underlying residential zoning), a proposed offender transitional housing use may not cause the number of offender transitional housing uses within a radius of 1.5 times the required separation distance of the proposed offender transitional housing use to exceed 0.5 percent of the total number of dwellings for developed neighborhoods within that radius, or 0.5 percent of the planned dwellings or permissible dwellings within that radius for partly undeveloped or undeveloped neighborhoods.

(c) *Offender transitional housing in nonresidential zones.* In nonresidential zones where dwelling or lodging units are permitted, a proposed offender transitional housing use that is within 500 feet of a residential zone may not cause the sum of the population capacity of offender transitional housing to exceed ten percent of the sum of dwelling units and lodging units in parcels within a radius of 500 feet of a proposed offender transitional housing use, except that where the sum of dwelling and lodging units within 500 feet is fewer than 100, the population capacity of offender transitional housing or lodging units shall not exceed ten persons.

(d) *Offender transitional housing for predatory offenders.*

(1) Any offender transitional housing providing or intending to provide housing to a designated predatory offender, as defined by state law or administrative rule, must meet the separation requirements provided in this section. Except where otherwise specified, the separation distances shall be measured from the property lines of the offender housing and the facility or property from which it shall be separated.

(2) Separation by a distance of not less than 1,000 feet is required from the following facilities:

a. Public parks in existence at the date of application for a license under this section;

b. A licensed family day care or child day care facility in existence at the date of application for a license under this section;

c. Public or private nursery schools, elementary schools, secondary schools, and post-secondary schools, in existence at the date of application for a license under this section;

d. A state-licensed residential facility as referenced in M.S.A. § 462.357, subd. 7, and in existence at the date of application for a license under this section.

(3) The residents of the offender transitional housing shall be limited to only those offenders that were convicted of an offense while residents of the county and the residents shall only reside in the premises for a period not to exceed 12 months.

(4) A dwelling unit owned by or leased by the offender, or by a member of the offender's immediate family, shall not be considered offender transitional housing.

(e) *Offender transitional housing license.*

(1) An offender transitional housing use must obtain a license prior to any occupancy of such use. The license shall be subject to the occupancy restrictions of the underlying zoning district as stipulated in section 10-40 and the rental density restrictions of section 7-57. In nonresidential districts a license shall only be issued if the underlying zoning district permits residential uses.

(2) Previously licensed rental properties may only be used for offender transitional housing if the property conforms to sections 10-40 and 7-57 and this section. For the purposes of this section, properties proposed for offender transitional housing shall be considered a new rental license and a license shall only be granted if the property conforms to sections 10-40 and 7-57.

(3) The license shall be subject to revocation if conditions of approval are violated or if it is determined to be a detrimental use per section 7-55. If an offender transitional housing use is discontinued for a period of 12 consecutive months or if a license is revoked, there shall be no presumed right to reinstatement and any use at the location shall be considered in the same manner as a new use.

(4) Prior to the establishment of offender transitional housing, the state agency responsible for the supervision of the offender shall send notice to all property owners within 500 feet of the property to be used for offender transitional housing. The notice shall state the intent of the state agency to establish offender transitional housing and the place and time of a public meeting, to be held within the city limits, at which meeting, the state agency will provide details to the public regarding to the proposed offender transitional housing.

(5) The rental license for a dwelling used for offender transitional housing shall contain the contact information for the state agency and a local agent that is employed by the state agency. At the public meeting, the name and contact information of the local contact/agent shall be supplied to the attendees.

(f) *Existing offender transitional housing.* Offender transitional housing existing on the date of the enactment of the ordinance from which this section is derived shall immediately obtain a license under this section and shall comply with the other provisions of this section within 12 months of ordinance adoption. If the property currently used for offender transitional housing does not conform to the provisions of this section, it shall cease operation within 12 months of the adoption of the ordinance from which this section is derived or adjust the operation of the offender transitional housing to comply with this section.

(Code 2015, § 5.42(22); Ord. of 8-25-2014)

Chapter 8

ENVIRONMENTAL CONTROL

Article I. In General

Secs. 8-1—8-18. Reserved.

Article II. Erosion and Sediment Control

Sec. 8-19. Purpose and intent.
Sec. 8-20. Definitions.
Sec. 8-21. Subject land use activities.
Sec. 8-22. Land use exemptions.
Sec. 8-23. Land disturbance permit exceptions.
Sec. 8-24. Land disturbance permit—Application required.
Sec. 8-25. Land disturbance permit—Fees.
Sec. 8-26. Land disturbance permit—Standards.
Sec. 8-27. Land disturbance permit—Duration of coverage.
Sec. 8-28. Termination of coverage.
Sec. 8-29. Inspections.
Sec. 8-30. Violations and enforcement.
Sec. 8-31. Penalties.

ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. EROSION AND SEDIMENT CONTROL

Sec. 8-19. Purpose and intent.

(a) This article establishes standards and requirements for erosion and sediment control measures to be taken during the development of and alterations to lands within the city. The purpose of this article is to protect health, safety and general welfare, property and the environment by establishing regulations for erosion and sediment control related to land disturbing activities as required by federal (United States Environmental Protection Agency, USEPA) and state (Minnesota Pollution Control Agency, MPCA) law.

(b) The objectives of this article are:

(1) To regulate land disturbing activity that allows uncontrolled erosion to occur.

(2) To protect and prevent the discharge of sediment into public or private lands, public infrastructure, wetlands and waters of the state.

(Code 2015, § 12.02(1); Ord. of 4-13-2009)

Sec. 8-20. Definitions.

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

Applicant means any person or group that applies for a permit to allow land disturbing activities. The term "applicant" also means that person's agents, employees, and others acting under the person's or groups direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under the person's or group's direction.

Best management practices (BMPs) means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of waters of the state, including avoidance of impacts, prohibitions of practices, general housekeeping practices, pollution prevention and educational practices, operating and maintenance procedures, and other applicable management practices.

Building construction means the construction of any principal building or accessory structure or modification of a parcel of land or platted lot.

Developer means any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision engaged in a land disturbance activity.

Final stabilization means all soil disturbing activities at the site have been completed and all soils must be stabilized by a uniform perennial vegetative cover with a density of 70 percent over the entire previous service area, or other equivalent means necessary to prevent soil failure under erosive conditions; and

(1) All drainage ditches, constructed to drain water from the site after construction is complete, must be stabilized to exclude erosion;

(2) All temporary synthetic and structural erosion prevention and sediment control BMPs (such as silt fence) must be removed; and

(3) The permittee must clean out all sediment from conveyances and from temporary sedimentation basins that are to be used as permanent water quality management basins. Sediment must be stabilized to prevent it from being washed back into the basin or into conveyances or drainageways discharging off-site or to surface waters. The cleanout of permanent basins must be sufficient to return the basin to design capacity.

Grading manual means the city grading manual, most current version; requirements for grading and drainage design and construction for any land disturbing activities.

Land development (develop) means the process whereby improvement to a single lot or to an entire site occurs in one continuous process or in more than one distinct phase, including, but not limited to, the following activities: site grading; installation of utilities; construction of public streets; construction or grading of drainageways; other grading or filling of any area within the site; grading of building pad areas; utility hookups; construction of buildings; parking lots; driveways; storage areas; private streets; and any other construction or land disturbing activity within the subject property site.

Land disturbance permit (LDP) means a permit issued by the city for the control of erosion and sediment during land disturbing activities.

Land disturbing activity means any removal of vegetation, excavating, grading, clearing, filling, stockpiling, hauling, or other earth change related to or associated with construction or reconstruction, which may result in movement of soil particles of earth.

Municipal separate storm sewer system (MS4) means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, constructed channels or storm drains) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body and designed or used for collecting or conveying stormwater, and not used for collecting or conveying wastewater that discharges to water of the United States.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit means a permit issued by the USEPA (or by a state under authority delegated by the USEPA) that authorizes discharge to water of the United States.

Owners means a natural person, partnership, firm, association, public or quasi-public corporation, private corporation, or a combination thereof, with a legal or equitable interest in the parcel of record.

Parcel of record means a tract, plot, lot, or portion of subdivision or other parcel of land, intended as a unit for the purpose, whether immediate or future, of transfer of ownership, possession or for building development.

Permittee means a land disturbance permit holder.

Preliminary plat means a drawing of the entire subdivision meeting all requirements of the city subdivision ordinance.

Public waters means all basins and water courses that meet the criteria set forth in M.S.A. § 103G.005, subd. 15 that are identified on public water inventory maps and lists authorized by M.S.A. § 103G.201.

Sediment means the product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, or ice, and has come to rest on the earth's surface either above or below water level.

Stabilization means the covering of exposed ground surface by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Applying mulch, hydromulch, tackifier, polyacrylamide or similar erosion prevention practices is not acceptable stabilization in temporary or permanent drainage ditches or areas where concentrated overland flow occurs. Grass seeding is not stabilization.

Stormwater means the precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff and drainage. The term "stormwater" does not include construction site dewatering.

Stormwater pollution prevention plan (SWPPP) means a plan developed to identify the sources of pollution that affect the quality of stormwater discharge from a site and to describe and ensure the implementation of practices to prevent or reduce pollutants in stormwater discharge.
(Code 2015, § 12.02(2); Ord. of 4-13-2009; Ord. No. 15-0323-4, § 12.02(2), 3-23-2015)

Sec. 8-21. Subject land use activities.

All land disturbing activities are subject to the conditions of this article.

(1) Land disturbance activities less than 5,000 square feet are not required to obtain an LDP, but must comply with the requirements in subsection (2) of this section. The director of public works or a designee has the authority to waive or add requirements from subsection (2) of this section to any land disturbance activities less than 5,000 square feet.

(2) Land disturbance activities greater than 5,000 square feet are required to obtain an LDP and must also comply with these minimum requirements:

   a. Property and streets adjacent to the site of a land disturbance shall be protected from sediment deposition. This shall be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, filters, dikes or sediment basins, by stockpiling soil in appropriate locations or by a combination of such measures.

b. All storm sewer inlets which are functioning during construction shall be protected so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.

c. Property and waterways downstream from development sites shall be protected from flooding and erosion due to increases in the volume, velocity and peak water flow rate of stormwater runoff. Concentrated stormwater runoff leaving a development's site must be discharged directly into a well-defined natural or man-made off-site receiving channel or pipe.

d. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized forthwith after land disturbing activity is complete.

e. Whenever construction vehicles access public roads, provision shall be made to minimize the transport of sediment by runoff or vehicle tracking onto the paved surface. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day.

f. All temporary and permanent erosion and sediment control practices shall be maintained and repaired to ensure the continued performance of their intended function.

g. All temporary erosion and sediment control measures shall be removed within 30 days after final site stabilization is achieved or after the temporary measures are no longer needed.

(3) Land disturbing activities that disturb land of greater than or equal to 5,000 square feet are required to obtain a land disturbance permit (LDP).

a. *Residential, commercial, multifamily and industrial site.* All persons planning a land disturbing activity, meeting the requirements of this article, on an existing parcel of record (building site) shall first obtain a NPDES CSW permit (if applicable), then obtain an LDP, from the city prior to obtaining a building permit. A building permit will not be issued without an approved building site LDP.

b. *Subdivision development.* A subdivision owner/developer/agent planning a land disturbing activity, including, but not limited to, mass grading, site development, roadway and utility installation on an existing parcel of record as shown on the preliminary plat, shall obtain an LDP from the city, if meeting the requirements of this article, for the project phase where work will be performed as specified in the city-approved construction plans as part of the approved grading and drainage plan. A subdivision owner/developer/agent may do so without approved final construction plans and specifications relevant to final plat phasing. Prior to site work or building construction, each parcel of record (building site) must have its own LDP obtained by the owner or applicant as described in subsection (2) of this section.

c. *Roadway and utility installation construction plans.* All persons wishing to start a land disturbance project on a new or an existing lot of record for the purposes of the

construction of any roadway or utilities shall submit an LDP application to the city at the time of the roadway and utility plan if the project meets the requirements of this article. Each parcel of record within a subdivision must obtain a separate LDP.

(4) The LDP does not replace, eliminate or satisfy the need for any other permits required by any other public or private entity.

(Code 2015, § 12.02(3); Ord. of 4-13-2009)

Sec. 8-22. Land use exemptions.

The following activities are exempt from the requirements of this article: any emergency activity that is immediately necessary for the protection of life, property or natural resources.

(Code 2015, § 12.02(4); Ord. of 4-13-2009)

Sec. 8-23. Land disturbance permit exceptions.

The following activities require application and issuance of an LDP and are subject to the provisions of this article, but are exempt from the fee requirements:

(1) Maintenance work by city employees.

(2) Federal, state, county, MS4 and other projects where the city does not have regulatory authority.

(3) Small utilities working in the right-of-way.

(4) Construction projects administered through the city's department of engineering.

(Code 2015, § 12.02(5); Ord. of 4-13-2009; Ord. No. 15-0323-4, § 12.02(5), 3-23-2015)

Sec. 8-24. Land disturbance permit—Application required.

(a) Prior to any land disturbing activities on lands subject to this article, the owner or applicant shall be required to obtain a land disturbance permit (LDP).

(b) The application for an LDP shall include the following:

(1) One full set of site plans and a copy of the SWPPP or portion of the SWPPP that applies to the site, prepared for the MPCA (if applicable) if not included in the full set of site plans. The city reserves the right to approve the SWPPP subject to conditions deemed necessary to meet the purpose of this article, in addition to the MPCA CSW permit, where applicable. City approval of a SWPPP does not mean city approval. At a minimum, all conditions of the MPCA NPDES construction permit MN R100001 must be met; in some cases, the city may apply stricter standards or require temporary and permanent erosion and sediment control measures in addition to those required by other public or private entities.

(2) The permittee shall indicate in the SWPPP who is responsible for post construction maintenance of all BMPs.

(3) If a SWPPP is not required by the MPCA, the following must accompany the LDP application:

a. *Site information.*

1. Delineation of the subject property and the location of existing and proposed buildings, structures and impervious surfaces;
2. Description of the construction or land disturbing activity to be performed on the property and proposed project schedule;
3. Identification of all stormwater drains and drainageways and or public waters located on and within 30 feet of the subject property's boundaries, and identify if a water body is intended to be used for water quality treatment. Identification by use of best available maps from the city, DNR or county will be sufficient;
4. Identification of all wetland buffer zones (a previous delineation is acceptable).

b. *If available.*

1. Topographic data, including existing (dashed) and proposed (solid) contours at vertical intervals of not more than two feet, except that contour lines shall be no more than 100 feet apart;
2. Temporary benchmarks shall be established within the boundaries of the project area. Descriptions, reference ties and elevations of the benchmarks shall be furnished; and
3. The location and size of all existing sanitary sewer, water or storm sewer, and services on or adjacent to the property.

c. *Erosion and sedimentation control.*

1. Delineation of all areas to be graded or excavated, and the limits of land disturbing activities;
2. Identification of measures to be utilized to control erosion and sedimentation within and from the subject property during the project activity as required herein;
3. Identification of all permanent erosion control measures and a completion schedule;
4. Identification of the location of soil storage or stockpile areas to be utilized;
5. Identification of all measures to be utilized to protect neighboring property, water bodies, and wetland buffer zones; and
6. Identification, use and maintenance plan of BMPs for temporary erosion and sedimentation control as recommended by the MPCA stormwater manual, including, but not limited to:
   (i) Perimeter erosion control devices, including, but not limited to, silt fence, sediment logs, mulch, etc.;
   (ii) Stockpile protection;
   (iii) Phased grading;

(iv) Temporary seeding, mulching, and disc anchoring (with seed and mulch typed);

(v) Storm drain inlet protection devices;

(vi) Appropriately protected construction entrance;

(vii) Removal of all debris, dirt and soil from impervious ground surfaces, including abutting public or private roadways and sidewalks, in connection with the subject property (street sweeping);

(viii) Sediment basins and flow diversions; and

(ix) Any other erosion and sedimentation control device as deemed necessary by the city.

d. *Drainage and grading.* Documents as required and necessary for design and construction of any regulated activities. All documents are to be in conformance with the most recent version of the city's grading manual.

(c) The city shall, in writing:

(1) Approve the permit application;

(2) Approve the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this article, and issue the permit subject to these conditions; or

(3) Disapprove the permit applications, indicating the reasons and procedure for submitting a revised application or submission.

(Code 2015, § 12.02(6), (8); Ord. of 4-13-2009; Ord. No. 15-0323-4, § 12.02(8), 3-23-2015)

Sec. 8-25. Land disturbance permit—Fees.

Fees for land disturbance permits shall be established by resolution of the city council and in the amount provided in the city fee schedule. All fees shall be submitted to the city with the permit application.

(Code 2015, § 12.02(7); Ord. of 4-13-2009)

Sec. 8-26. Land disturbance permit—Standards.

All exposed soil areas must have appropriate permanent or temporary stabilization as soon as possible to limit soil erosion but in no case later than seven days after the construction activity in that portion of the site has temporarily or permanently ceased. Temporary stockpiles without significant silt, clay or organic components (e.g., clean aggregate stockpiles, demolition concrete stockpiles, sand stockpiles) and the constructed base components of roads, parking lots and similar surfaces are exempt from this requirement but must comply with stockpile requirements.

(Code 2015, § 12.02(9); Ord. of 4-13-2009)

Sec. 8-27. Land disturbance permit—Duration of coverage.

An LDP shall remain effective until one of the following occurs:

(1) *Final stabilization.* Final stabilization is achieved.

(2) *Time requirement reached.* The LDP becomes void if work does not begin within 180 days of permit approval or is suspended at any time for over 180 days. Extensions may be granted for requests received at least 15 days prior to permit becoming void. If a permit becomes void, the permit application process will begin anew.

(Code 2015, § 12.02(10); Ord. of 4-13-2009)

Sec. 8-28. Termination of coverage.

(a) A permittee wishing to terminate the LDP must complete final stabilization of the parcel of record and submit a notice of termination (NOT) request. Requests for NOT are made by using proper NOT communication (telephone call, e-mail).

(b) Compliance with the LDP is required until a NOT is approved by the city.

(Code 2015, § 12.02(11); Ord. of 4-13-2009)

Sec. 8-29. Inspections.

The city shall have the right to enter and inspect a property to determine compliance with this article.

(1) *Self-inspections.* The permittee or their designee must make regular inspections of the entire site at least once every seven days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours, to ensure compliance with this article. Records of these inspections shall be made available to the city upon request.

(2) *City inspections.* The public works director or their designee shall make inspections and either approve that portion of work or notify the permittee where work is noncompliant. The LDP fee shall cover the cost of routine inspections. Additional inspections due to noncompliance will be billed to the affected property owner at 2.5 times the base hourly salary of the inspector.

(Code 2015, § 12.02(12); Ord. of 4-13-2009)

Sec. 8-30. Violations and enforcement.

(a) In the event of noncompliance, the city may suspend construction and any issued permits. Only corrective action work to bring the site back to compliance will be permitted, and no other construction on the site shall be allowed until authorized by the city.

(b) The city shall use the following procedure to notify property owners of violations and corrective measures:

(1) *Residential, commercial, multifamily and industrial site.* In the event a building site permittee is in violation of the LDP or the SWPPP, the city may issue a stop work order suspend or revoke the LDP or building permits for the site. The city shall serve the permittee or other responsible persons, in writing a notice of violation.

(2) *Land disturbing activities in the public rights-of-way.* The city shall notify the responsible party of the violation and require that construction activities be terminated to allow the responsible party to remove conditions or remedy any defects. The notice shall require the responsible party to take reasonable steps within 24 hours to abate and correct the violation.

(3) *Stop work orders.* The city manager or designee may issue stop work orders for any violation of this article.

(4) *Public nuisance.* A violation of this article is declared to be a public nuisance and which may be abated according to the provisions of chapter 11.

(Code 2015, § 12.02(13); Ord. of 4-13-2009)

Sec. 8-31. Penalties.

Any person violating any of the provisions of this article, including falsifying information, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $1,000.00, or by imprisonment not to exceed 90 days, or both.

(Code 2015, § 12.02(14); Ord. of 4-13-2009)

Chapter 9

FIRE PREVENTION AND OTHER PUBLIC SAFETY CONTROL

Article I. In General

Secs. 9-1—9-18. Reserved.

Article II. Explosives

Sec. 9-19. Definitions.
Sec. 9-20. Permit or license required.
Sec. 9-21. Standards for denial.
Sec. 9-22. Revocation.
Sec. 9-23. Transfer of explosives.
Sec. 9-24. Use or storage of explosives.
Secs. 9-25—9-51. Reserved.

Article III. Alarm Systems

Sec. 9-52. Statement of policy.
Sec. 9-53. Definitions.
Sec. 9-54. Permits and exemptions.
Sec. 9-55. Initial application.
Sec. 9-56. Permits nontransferable.
Sec. 9-57. Alarm systems utilizing taped or prerecorded messages.
Sec. 9-58. Response to notice of false alarms.
Sec. 9-59. Review; suspension; appeal.
Secs. 9-60—9-78. Reserved.

Article IV. Fireworks

Sec. 9-79. General regulations.

ARTICLE I. IN GENERAL

Secs. 9-1—9-18. Reserved.

ARTICLE II. EXPLOSIVES

Sec. 9-19. Definitions.

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

Explosive means any compound or mixture, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat; but shall not mean or include the components for handloading rifle, pistol and shotgun ammunition, or rifle, pistol, shotgun ammunition, black powder, primers and fuses when used for ammunition and components for antique or replica muzzle-loading rifles, pistols, muskets, shotguns and cannons, or fireworks as defined in M.S.A. § 624.20, or any fertilizer product possessed, used or sold solely for a legitimate agricultural, forestry, conservation, or horticultural purpose.

Explosive device means any device so articulated that an ignition by fire, by friction, by concussion or by detonation of any part thereof may cause such sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects, but shall not mean or include the components for handloading rifle, pistol and shotgun ammunition or rifle, pistol and shotgun ammunition, black powder, primers and fuses when used for ammunition and components for antique or replica muzzle-loading rifles, pistols, muskets, shotguns, and cannons, or fireworks as defined in M.S.A. § 624.20, nor any fertilizer product possessed, used or sold solely for legitimate agricultural forestry, conservation or horticultural purposes.

Highway means any public street, public alley or public road.

Inhabited building means a building or structure regularly used in whole or in part as a place of human habitation, and shall also mean any church, school, store, and any other building or structure where people are accustomed to congregating or assembling, but excluding any building or structure occupied in connection with the manufacture, transportation, storage and use of explosives.

(Code 2015, § 5.47(1); Ord. of 2-26-1979; Ord. of 9-24-1984, § 1-4)

Sec. 9-20. Permit or license required.

It is unlawful for any person to have in possession or use any explosives within the city without having first obtained a permit for use or a valid manufacturer's or seller's license issued by the commissioner of public safety of state pursuant to M.S.A. ch. 299F. In no event shall a manufacturer's or seller's license issued by such commissioner of public safety be sufficient to permit or allow the use of explosives within the city, unless accompanied by a valid use permit issued pursuant to M.S.A. ch. 299F.

(Code 2015, § 5.47(2); Ord. of 2-26-1979; Ord. of 9-24-1984, § 1-4)

Sec. 9-21. Standards for denial.

A use permit for which approval is sought from the director of public safety shall not be issued if:

(1) The investigation of the application indicates that the applicant does not have the ability to store, use, or handle explosives in conformity with the provisions of this section.

(2) The applicant has, within the past five years, been convicted of a felony or gross misdemeanor involving moral turpitude, is on parole or probation therefor, or is currently under indictment for any such crime.

(3) The applicant is a mentally ill or mentally deficient person, as defined in M.S.A. § 253A.02, who has been confined or committed in the state or elsewhere for a mental disorder or defect to any hospital, mental institution of sanitarium, or who has been certified by a medical doctor as being mentally ill or mentally deficient, unless the applicant possesses a certificate of a medical doctor or psychiatrist licensed to practice in the state or other satisfactory proof that the applicant is no longer suffering from such disability.

(4) The applicant is under the age of 18 years.

(Code 2015, § 5.47(4); Ord. of 2-26-1979; Ord. of 9-24-1984, § 1-4)

Sec. 9-22. Revocation.

The director of public safety may either suspend, for not to exceed 60 days, or revoke any permit issued by the director of public safety pursuant to M.S.A. ch. 299F.

(Code 2015, § 5.47(5); Ord. of 2-26-1979; Ord. of 9-24-1984, § 1-4)

Sec. 9-23. Transfer of explosives.

It is unlawful for any person to transfer explosives to another unless the transferee shall display to the transferor a copy of a valid license or use permit and proper identification.

(Code 2015, § 5.47(6); Ord. of 2-26-1979; Ord. of 9-24-1984, § 1-4)

Sec. 9-24. Use or storage of explosives.

(a) Any person using, handling or storing explosives, in any manner, shall, in all respects comply with the rules and regulations of the state department of public safety, bureau of criminal apprehension, pertaining to such use, handling or storage.

(b) Any person intending to use any explosive within 1,000 feet of any inhabited structure or highway, shall give to the director of public safety at least five days' advance written notice of the date, time, location and nature of such proposed use, and shall permit representatives of the director to attend upon and observe such use. Nothing herein, however, shall be construed as requiring such attendance or observance of a given use; the intent hereof being to allow such attendance and observation in the discretion of the director.

(c) It is unlawful for any party to disobey any order of any representative of the director of public safety attending upon or observing a given use of explosives, which order directs compliance with the provisions of this section, any state statute, or any rule or regulation of the state department of public safety, bureau of criminal apprehension.
(Code 2015, § 5.47(7); Ord. of 2-26-1979; Ord. of 9-24-1984, § 1-4)

Secs. 9-25—9-51. Reserved.

ARTICLE III. ALARM SYSTEMS

Sec. 9-52. Statement of policy.

The city council deems it necessary to provide for the special and express regulation of alarm systems which are designed to signal the presence of a hazard requiring urgent attention and to which public safety personnel are expected to respond, in order to protect the public health, safety, and welfare.
(Code 2015, § 5.50(1); Ord. of 5-11-1992; Ord. of 4-26-1993)

Sec. 9-53. Definitions.

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

Alarm system means an assembly of equipment and devices (or a single device such as a solid state unit) arranged to signal the presence of a hazard. The alarm, when triggered, must be directly connected to a central monitoring agency which then notifies the police department of an emergency to which public safety personnel must respond or may emit an audible signal which will require urgent attention and to which public safety personnel are expected to respond.

Alarm user means the person, firm, partnership, association, corporation, company or organization of any kind on whose premises an alarm system is maintained. The term "alarm user" includes persons occupying dwelling units for residential purposes.

Calendar year means the period from January 1 through December 31 of each year.

False alarm means any activation of an alarm system that results in a response by the public safety department where an emergency situation does not exist. The term "false alarm" includes, but is not limited to, activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligent use or maintenance of the alarm system by its owner or lessee or by the owner's or lessee's employees or agents. The term "false alarm" does not include activation of the alarm by utility company power outages or by climatic conditions, such as tornadoes, lightning, earthquakes, other violent conditions of nature, or any other conditions which are clearly beyond the control of the alarm manufacturer, installer and owner. The term "false alarm" does not include activation of an alarm system as the result of an effort or order to upgrade, install, test, or maintain the system, if the public safety director and, where applicable, central monitoring agency for the alarm system, are each notified in advance of the upgrade, installation, test or maintenance.

Police alarm system means an alarm system designed, installed, or operated to prompt a response by the police department.
(Code 2015, § 5.50(2); Ord. of 5-11-1992; Ord. of 4-26-1993)

Sec. 9-54. Permits and exemptions.

(a) *Permits.* Every alarm user shall be required to obtain an alarm user permit for each alarm system on the alarm user's premises at the time of the first false alarm. Alarm user permits shall consist of permits for police alarm systems.

(b) *Exemptions.* The provisions of this article are not applicable to audible alarms affixed to automobiles.

(c) *Violation.* An alarm user who is operating an alarm system without a required permit is guilty of a misdemeanor.
(Code 2015, § 5.50(3); Ord. of 5-11-1992; Ord. of 4-26-1993)

Sec. 9-55. Initial application.

(a) Every applicant for an alarm permit shall file with the director of public safety, on forms provided by the city, an application stating:

(1) The name, address, and telephone number of the applicant;

(2) The description of the business/residence where it is proposed to use an alarm system;

(3) Its location, street, and number; and

(4) The name, address, and telephone number of one person or company who will be available to be contacted in the event of an alarm activation. In the event the name, mailing address, or telephone number of the person to be contacted changes, the applicant must supply corrected information to the public safety director and finance director within five days of the change.

(b) At the time of filing an application, the applicant must pay all permit fees required by this article. Upon receipt of all applicable fees, the application becomes a temporary permit, pending review and approval of the city manager.
(Code 2015, § 5.50(4); Ord. of 5-11-1992; Ord. of 4-26-1993; Ord. of 8-12-2013)

Sec. 9-56. Permits nontransferable.

Alarm user permits are not transferable from one person to another or from one location to another.
(Code 2015, § 5.50(5); Ord. of 5-11-1992; Ord. of 4-26-1993)

Sec. 9-57. Alarm systems utilizing taped or prerecorded messages.

No person may install, monitor, use or possess an operative alarm which utilizes tapes or prerecorded messages which deliver a telephone alarm message to the police of fire department.
(Code 2015, § 5.50(6); Ord. of 5-11-1992; Ord. of 4-26-1993)

Sec. 9-58. Response to notice of false alarms.

(a) Alarm users are responsible for ensuring that they or their alarm vendor responds to all notices of false alarms. The alarm vendor or user must provide a written response to the city department of public safety within seven days stating what action has been taken to correct the cause of the false alarm if required. If a response is not received within the seven days, the department of public safety will notify the alarm user of the omission with a copy to the alarm vendor. Included in the written notification will be a notice that failure of the alarm vendor or user to respond within seven days of the notice will result in the suspension of the alarm user's alarm permit. After the false alarm notice, the alarm user must complete and submit an application for an alarm user's permit with the written response to the city department of public safety.

(b) Failure by an alarm vendor or user to respond within the stated time period will result in notice being given to the alarm user that their alarm permit is suspended. Reissuance of the alarm permit shall be subject to a reissuance fee, as provided in the city fee schedule, and a response being received from the alarm vendor.
(Code 2015, § 5.50(7); Ord. of 5-11-1992; Ord. of 4-26-1993)

Sec. 9-59. Review; suspension; appeal.

Upon receiving notice of the third false alarm in a calendar year, the director of public safety, or their designee, shall review the responses to the false alarms to determine if they are the result of misuse or abuse. If it is found that the false alarms were a result of misuse or abuse, the alarm permit will be suspended on each subsequent false alarm during the calendar year. Before any suspension is imposed, the permittee shall be notified of the suspension and their right to an appeal pursuant to chapter 2, article III, division 2. A permit may be reinstated upon payment of a reinstatement fee according to the city fee schedule and compliance with the reporting requirements of section 9-58.
(Code 2015, § 5.50(8); Ord. of 5-11-1992; Ord. of 4-26-1993)

Secs. 9-60—9-78. Reserved.

ARTICLE IV. FIREWORKS

Sec. 9-79. General regulations.

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

Fireworks means any composition or device for the purpose of producing a visible or audible effect for entertainment purposes by combustion, deflagration, or detonation.

(b) *Permit required.*

(1) *Commercial fireworks.* No person shall use or display commercial fireworks without a permit. Permits are obtained through the department of public safety. This applies to indoor and outdoor fireworks.

(2) *Indoor fireworks.* All proximate pyrotechnics displays must receive a permit from the city fire marshal's office in accordance with M.S.A. § 624.22. Applications for permits must be made at least 15 days in advance of the date of the performance. Application forms are available on the city's website or from the department of public safety. Applications received less than 15 days in advance of the performance have a significantly reduced chance of being approved or may cause additional costs for the operator. Proximate pyrotechnics displays shall be compliant with NFPA 1123 and NFPA 1126. The application materials must include the following information:

a. The name and qualifications of the fireworks operators who must be certified by the state fire marshal. It is acceptable if someone from out of state is operating with an out-of-state license as long as there is also someone present who is licensed by the State of Minnesota.

b. Date, time and location of the production.

c. Proof of bond or certificate of insurance. An amount of at least $5,000,000.00 is required. The insurance bond or certificate will list the city as an additional insured.

d. A diagram of the facility at which the display will be held. The diagram (scale or dimensions included) must show the point at which the fireworks/pyrotechnics special effects are to be discharged, the location of ground pieces, overhead pieces, possible overhead obstruction, the location of the shooter, and the lines behind which the audience will be restrained. These diagrams must also include the fallout radius for each pyrotechnic device used during the display.

e. An effects list describing the maximum rated height and diameter of each effect.

f. Names and ages of all assistants that will be participating in the display. The primary operator must be at least 21 years of age. All assistants shall be at least 18 years of age.

g. Storage of the fireworks shall be in a secured locked room and contained in a magazine designed for fireworks.

h. The fee for the permit is in the amount specified in the city fee schedule and must be submitted with the application. An inspection of the building shall be completed before the date of the performance to make sure that the alarms and sprinklers have been inspected.

i. Indoor fireworks are not allowed in any building that is not completely protected by a sprinkler system.

j. In the event the fire alarm system must be turned off because of smoke generation during a permitted fireworks display, a fire watch of one or more firefighters will be required depending on the size of the building.

k. When the application is deemed complete and is accepted, a thorough investigation of the operator and an all-inclusive inspection of the facility will be conducted prior to the performance, show or event taking place. This will include an inspection of the entire building, including areas where the show may not be directly taking place (i.e., kitchen,

exterior building elements, etc.). Any correction orders issued by the inspectors as a result of the required inspection, whether or not they are directly related to the fireworks display or location, must be corrected within the time period indicated.

(3) *Outdoor fireworks.* The provisions of subsection (b)(2) of this section also apply to outdoor fireworks displays, except for the provisions referring to the building inspections and fire suppression systems.

(Code 2015, § 12.05(9); Ord. of 3-24-2008; Ord. No. 15-0323-4, § 12.05(8)(2), 3-23-2015; Ord. No. 17-0410-2, § 12.05(9), 4-10-2017)

Chapter 10

LAND USE AND DEVELOPMENT

Article I. In General

Sec. 10-1. Scope.
Sec. 10-2. Definitions.
Sec. 10-3. Zoning districts and map.
Sec. 10-4. Annexed land.
Sec. 10-5. District boundaries.
Sec. 10-6. District regulations.
Sec. 10-7. Severability.
Secs. 10-8—10-32. Reserved.

Article II. Residential Districts

Division 1. Generally

Sec. 10-33. Accessory uses and structures.
Sec. 10-34. Compliance with applicable regulations.
Sec. 10-35. Off-street parking and loading.
Sec. 10-36. Landscaping and screening.
Sec. 10-37. Signs.
Sec. 10-38. Performance standards.
Sec. 10-39. State-licensed residential facility.
Sec. 10-40. Residential occupancies.
Sec. 10-41. General provisions.
Sec. 10-42. Planned unit developments.
Secs. 10-43—10-72. Reserved.

Division 2. T Transition District

Sec. 10-73. Purpose.
Sec. 10-74. Special minimum requirements.
Secs. 10-75—10-91. Reserved.

Division 3. R-1 One-Family Dwelling District

Sec. 10-92. Purpose.
Sec. 10-93. Permitted uses.
Sec. 10-94. Conditional uses.
Sec. 10-95. Minimum lot area.
Sec. 10-96. Minimum lot width.
Sec. 10-97. Yards and setbacks.
Sec. 10-98. Maximum ground coverage.
Sec. 10-99. Maximum floor area ratio.
Sec. 10-100. Maximum building height.
Sec. 10-101. Minimum structural requirements.
Secs. 10-102—10-130. Reserved.

Division 4. R-2 One- and Two-Family Dwelling District

Sec. 10-131. Purpose.
Sec. 10-132. Permitted uses.
Sec. 10-133. Conditional uses.
Sec. 10-134. Minimum lot area.
Sec. 10-135. Minimum lot width.
Sec. 10-136. Yards and setbacks.
Sec. 10-137. Maximum ground coverage.
Sec. 10-138. Maximum floor area ratio.
Sec. 10-139. Maximum building height.
Sec. 10-140. Minimum structural requirements.
Secs. 10-141—10-163. Reserved.

Division 5. R-3 Limited Multiple Dwelling District

Sec. 10-164. Purpose.
Sec. 10-165. Permitted uses.
Sec. 10-166. Conditional uses.
Sec. 10-167. Minimum lot area.
Sec. 10-168. Minimum lot width.
Sec. 10-169. Yards and setbacks.
Sec. 10-170. Maximum ground coverage.
Sec. 10-171. Maximum floor area ratio.
Sec. 10-172. Maximum building height.
Sec. 10-173. Minimum structural requirements.
Secs. 10-174—10-199. Reserved.

Division 6. R-4 Multiple-Family Dwelling District

Sec. 10-200. Purpose.
Sec. 10-201. Permitted uses.
Sec. 10-202. Conditional uses.
Sec. 10-203. Minimum lot area.
Sec. 10-204. Minimum lot width.
Sec. 10-205. Yards and setbacks.
Sec. 10-206. Maximum ground coverage.
Sec. 10-207. Maximum floor area ratio.
Sec. 10-208. Maximum building height.
Sec. 10-209. Minimum structural requirements.
Secs. 10-210—10-226. Reserved.

Division 7. R-T Residential Transition District

Sec. 10-227. Purpose.
Sec. 10-228. Permitted uses.
Sec. 10-229. Conditional uses.
Sec. 10-230. Minimum lot area.
Sec. 10-231. Minimum lot width.
Sec. 10-232. Yards and setbacks.
Sec. 10-233. Maximum ground coverage.
Sec. 10-234. Maximum floor area ratio.

Sec. 10-235. Maximum building height.
Sec. 10-236. Minimum structural requirements.
Secs. 10-237—10-265. Reserved.

Division 8. OR Office-Residential District

Sec. 10-266. Purpose.
Sec. 10-267. Permitted uses.
Sec. 10-268. Conditional uses.
Sec. 10-269. Minimum lot area.
Sec. 10-270. Minimum lot frontage.
Sec. 10-271. Yards and setbacks.
Sec. 10-272. Maximum ground coverage.
Sec. 10-273. Maximum floor area ratio.
Sec. 10-274. Maximum building height.
Sec. 10-275. Minimum structural requirements.
Sec. 10-276. Transitional buffer.
Secs. 10-277—10-300. Reserved.

Article III. IO Institutional Overlay District

Division 1. Generally

Secs. 10-301—10-318. Reserved.

Division 2. Use Regulations

Sec. 10-319. Purpose.
Sec. 10-320. Application.
Sec. 10-321. Permitted uses.
Sec. 10-322. Accessory uses.
Sec. 10-323. Minimum lot area requirement.
Sec. 10-324. Yards and setbacks.
Sec. 10-325. Maximum ground coverage.
Sec. 10-326. Maximum building height.
Sec. 10-327. Building design and construction.
Sec. 10-328. Off-street parking and loading.
Sec. 10-329. General requirements for overlay district designation.
Secs. 10-330—10-346. Reserved.

Article IV. Manufactured Homes

Division 1. Generally

Secs. 10-347—10-366. Reserved.

Division 2. Manufactured Home Parks

Sec. 10-367. Permits.
Sec. 10-368. Inspection of manufactured home park.
Sec. 10-369. Notices, hearings, and orders.

Sec. 10-370. Environmental, open spaces, and access requirements.
Sec. 10-371. Water supply.
Sec. 10-372. Sewage disposal.
Sec. 10-373. Service buildings and other community service facilities.
Sec. 10-374. Refuse handling.
Sec. 10-375. Insect and rodent control.
Sec. 10-376. Fuel supply and storage.
Sec. 10-377. Fire protection.
Sec. 10-378. Responsibilities of the park management.
Sec. 10-379. Existing nonconforming uses.
Secs. 10-380—10-401. Reserved.

Article V. Commercial Districts

Division 1. Generally

Secs. 10-402—10-430. Reserved.

Division 2. General Requirements

Sec. 10-431. Accessory uses and structures.
Sec. 10-432. Compliance with applicable regulations.
Sec. 10-433. Off-street parking and loading.
Sec. 10-434. Landscaping and screening.
Sec. 10-435. Signs.
Sec. 10-436. Performance standards.
Sec. 10-437. Site plan review.
Sec. 10-438. General provisions.
Sec. 10-439. Planned unit development.
Sec. 10-440. Urban design guidelines.
Secs. 10-441—10-463. Reserved.

Division 3. O Office District

Sec. 10-464. Purpose.
Sec. 10-465. Permitted uses.
Sec. 10-466. Conditional uses.
Sec. 10-467. Minimum lot area.
Sec. 10-468. Minimum lot frontage.
Sec. 10-469. Yards and setbacks.
Sec. 10-470. Maximum lot coverage.
Sec. 10-471. Building design and construction.
Sec. 10-472. Maximum building height.
Secs. 10-473—10-497. Reserved.

Division 4. CBD-C Central Business District-Core

Sec. 10-498. Purpose.
Sec. 10-499. Permitted uses.
Sec. 10-500. Conditional uses.
Sec. 10-501. Minimum lot area.

Sec. 10-502. Minimum lot frontage.
Sec. 10-503. Yards and setbacks.
Sec. 10-504. Maximum ground coverage.
Sec. 10-505. Maximum floor area ratio.
Sec. 10-506. Floor area bonus incentives.
Sec. 10-507. Maximum building height.
Sec. 10-508. Downtown design district.
Secs. 10-509—10-539. Reserved.

Division 5. CBD-F Central Business District-Fringe

Sec. 10-540. Purpose.
Sec. 10-541. Permitted uses.
Sec. 10-542. Conditional uses.
Sec. 10-543. Minimum lot area.
Sec. 10-544. Minimum lot frontage.
Sec. 10-545. Yards and setbacks.
Sec. 10-546. Maximum ground coverage.
Sec. 10-547. Maximum floor area ratio.
Sec. 10-548. Floor area bonus incentives.
Sec. 10-549. Maximum building height.
Sec. 10-550. Downtown design district.
Secs. 10-551—10-578. Reserved.

Division 6. B-1 Community Business Districts

Sec. 10-579. Purpose.
Sec. 10-580. Permitted uses.
Sec. 10-581. Conditional uses.
Sec. 10-582. Special requirements for light manufacturing and assembly.
Sec. 10-583. Minimum lot area.
Sec. 10-584. Yards and setbacks.
Sec. 10-585. Minimum street frontage.
Sec. 10-586. Maximum ground coverage.
Sec. 10-587. Maximum floor area ratio.
Sec. 10-588. Building design and construction.
Sec. 10-589. Maximum building height.
Secs. 10-590—10-611. Reserved.

Division 7. B-2 General Business District

Sec. 10-612. Purpose.
Sec. 10-613. Permitted uses.
Sec. 10-614. Conditional uses.
Sec. 10-615. Special requirements for light manufacturing and assembly.
Sec. 10-616. Minimum lot size.
Sec. 10-617. Minimum street frontage.
Sec. 10-618. Yards and setbacks.
Sec. 10-619. Maximum ground coverage.
Sec. 10-620. Maximum floor area ratio.
Sec. 10-621. Building design and construction.

Sec. 10-622. Maximum building height.
Secs. 10-623—10-647. Reserved.

Division 8. B-3 Highway Business District

Sec. 10-648. Purpose.
Sec. 10-649. Permitted uses.
Sec. 10-650. Conditional uses.
Sec. 10-651. Special requirements for light manufacturing and assembly.
Sec. 10-652. Minimum lot area.
Sec. 10-653. Minimum street frontage.
Sec. 10-654. Yards and setbacks.
Sec. 10-655. Maximum ground coverage.
Sec. 10-656. Maximum floor area ratio.
Sec. 10-657. Building design and construction.
Sec. 10-658. Maximum building height.
Secs. 10-659—10-689. Reserved.

Division 9. GT Gateway Overlay Districts

Subdivision I. In General

Sec. 10-690. General purpose.
Secs. 10-691—10-708. Reserved.

Subdivision II. DGT Downtown Gateway Overlay District

Sec. 10-709. Purpose.
Sec. 10-710. Application.
Sec. 10-711. Minimum lot area.
Sec. 10-712. Minimum street frontage.
Sec. 10-713. Yards and setbacks.
Sec. 10-714. Maximum ground coverage.
Sec. 10-715. Maximum floor area ratio.
Sec. 10-716. Building design and construction.
Secs. 10-717—10-745. Reserved.

Subdivision III. CGT Commercial Gateway District

Sec. 10-746. Purpose.
Sec. 10-747. Application.
Sec. 10-748. Minimum lot area.
Sec. 10-749. Minimum street frontage.
Sec. 10-750. Yards and setbacks.
Sec. 10-751. Maximum ground coverage.
Sec. 10-752. Maximum floor area ratio.
Sec. 10-753. Building design and construction.
Sec. 10-754. Maximum building height.
Sec. 10-755. Existing subdivisions.
Sec. 10-756. Existing development, new development, and redevelopment.
Secs. 10-757—10-780. Reserved.

Subdivision IV. HGT Highway Gateway Overlay District

Sec. 10-781. Purpose.
Sec. 10-782. Application.
Sec. 10-783. Minimum lot area.
Sec. 10-784. Minimum street frontage.
Sec. 10-785. Yards and setbacks.
Sec. 10-786. Maximum ground coverage.
Sec. 10-787. Maximum floor area ratio.
Sec. 10-788. Building design and construction.
Sec. 10-789. Maximum building height.
Sec. 10-790. Existing subdivisions.
Sec. 10-791. Existing development, new development, and redevelopment.
Secs. 10-792—10-820. Reserved.

Subdivision V. NGT Neighborhood Node Gateway Overlay District

Sec. 10-821. Purpose.
Sec. 10-822. Application.
Sec. 10-823. Minimum lot area.
Sec. 10-824. Maximum street frontage.
Sec. 10-825. Yards and setbacks.
Sec. 10-826. Maximum ground coverage.
Sec. 10-827. Maximum floor area ratio.
Sec. 10-828. Building design and construction.
Sec. 10-829. Maximum building height.
Secs. 10-830—10-851. Reserved.

Subdivision VI. Gateway Design Review and Certification of Design Compliance

Sec. 10-852. Certificate of design compliance.
Sec. 10-853. Application and plans.
Sec. 10-854. Plan review.
Sec. 10-855. Issuance of certificate of design compliance.
Secs. 10-856—10-873. Reserved.

Article VI. Design Review

Division 1. Generally

Secs. 10-874—10-894. Reserved.

Division 2. Downtown Design District

Sec. 10-895. Statement of purpose.
Sec. 10-896. Application; certificate of design compliance.
Sec. 10-897. Application and plans.
Sec. 10-898. Plan review.
Sec. 10-899. Issuance of certificate of design compliance.
Sec. 10-900. Design framework established.
Sec. 10-901. Special review considerations.
Sec. 10-902. Nonconforming buildings.

Sec. 10-903. Sequence of approval of applications for both a certificate of compliance and conditional use permit or variance.
Sec. 10-904. Violations.
Sec. 10-905. Fees.
Sec. 10-906. Other regulations applicable.
Secs. 10-907—10-930. Reserved.

Article VII. Industrial Districts

Division 1. Generally

Sec. 10-931. Accessory uses and structures.
Sec. 10-932. Compliance with applicable regulations.
Sec. 10-933. Off-street parking and loading.
Sec. 10-934. Landscaping and screening.
Sec. 10-935. Signs.
Sec. 10-936. Performance standards.
Sec. 10-937. Site plan review.
Sec. 10-938. General provisions.
Sec. 10-939. Planned unit development.
Sec. 10-940. Urban design guidelines.
Secs. 10-941—10-968. Reserved.

Division 2. PI Planned Industrial District

Sec. 10-969. Purpose.
Sec. 10-970. Permitted uses.
Sec. 10-971. Conditional uses.
Sec. 10-972. Minimum lot area.
Sec. 10-973. Minimum lot frontage.
Sec. 10-974. Yards and setbacks.
Sec. 10-975. Maximum building height.
Sec. 10-976. Maximum ground coverage.
Sec. 10-977. Maximum floor area ratio.
Sec. 10-978. Building design and construction.
Secs. 10-979—10-999. Reserved.

Division 3. M-1 Light Industrial District

Sec. 10-1000. Purpose.
Sec. 10-1001. Permitted uses.
Sec. 10-1002. Conditional uses.
Sec. 10-1003. Minimum lot area.
Sec. 10-1004. Minimum lot frontage.
Sec. 10-1005. Yards and setbacks.
Sec. 10-1006. Maximum building height.
Sec. 10-1007. Maximum ground coverage.
Secs. 10-1008—10-1027. Reserved.

Division 4. M-2 Heavy Industrial District

Sec. 10-1028. Purpose.
Sec. 10-1029. Permitted uses.
Sec. 10-1030. Conditional uses.
Sec. 10-1031. Minimum lot area.
Sec. 10-1032. Minimum lot width.
Sec. 10-1033. Yards and setbacks.
Sec. 10-1034. Maximum building height.
Sec. 10-1035. Maximum ground coverage.
Secs. 10-1036—10-1053. Reserved.

Article VIII. Shoreland Management

Division 1. Shoreland Overlay District

Sec. 10-1054. Purpose.
Sec. 10-1055. General provisions.
Sec. 10-1056. Definitions.
Sec. 10-1057. Applicability.
Sec. 10-1058. Designation.
Sec. 10-1059. Permitted and conditional uses.
Sec. 10-1060. Bulk and setback regulations.
Sec. 10-1061. Land development restrictions.
Sec. 10-1062. Subdivision/platting provisions.
Sec. 10-1063. Shoreland alterations.
Sec. 10-1064. Placement and design of roads, driveways and parking areas.
Secs. 10-1065—10-1114. Reserved.

Division 2. Planned Unit Developments (PUDs)

Sec. 10-1115. Purpose.
Sec. 10-1116. Types of PUDs permissible.
Sec. 10-1117. Processing.
Sec. 10-1118. Application.
Sec. 10-1119. Density determination.
Sec. 10-1120. Design criteria.
Sec. 10-1121. Conversions.
Secs. 10-1122—10-1150. Reserved.

Division 3. Stormwater Management

Sec. 10-1151. Standards.
Secs. 10-1152—10-1180. Reserved.

Article IX. Floodplain Management

Division 1. Generally

Secs. 10-1181—10-1208. Reserved.

Division 2. Floodplain District

Sec. 10-1209. Statutory authorization.
Sec. 10-1210. Purpose.
Sec. 10-1211. Abrogation and greater restrictions.
Sec. 10-1212. Warning and disclaimer of liability.
Sec. 10-1213. Definitions.
Secs. 10-1214—10-1244. Reserved.

Division 3. Jurisdiction and Districts

Sec. 10-1245. Lands to which this article applies.
Sec. 10-1246. Incorporation of maps by reference.
Sec. 10-1247. Districts.
Sec. 10-1248. Annexations.
Secs. 10-1249—10-1269. Reserved.

Division 4. Requirements and Establishment of All Floodplain Districts

Sec. 10-1270. Permit required.
Sec. 10-1271. No permit required.
Sec. 10-1272. Minimum development standards.
Sec. 10-1273. Floodway district.
Sec. 10-1274. Flood fringe district.
Sec. 10-1275. General floodplain district.
Sec. 10-1276. Subdivision standards.
Secs. 10-1277—10-1295. Reserved.

Division 5. Railroads, Roads, Bridges, and Public and Private Utilities and Service Facilities

Sec. 10-1296. Public transportation facilities.
Sec. 10-1297. Public utilities.
Sec. 10-1298. Private on-site water supply, individual sewage treatment systems, and other service facilities.
Secs. 10-1299—10-1324. Reserved.

Division 6. Manufactured Homes and Recreational Vehicles

Sec. 10-1325. Manufactured homes.
Sec. 10-1326. Recreational vehicles.
Secs. 10-1327—10-1350. Reserved.

Division 7. Administration

Sec. 10-1351. Duties.
Sec. 10-1352. Variances.
Sec. 10-1353. Conditional uses.
Sec. 10-1354. Notifications to the department of natural resources.
Secs. 10-1355—10-1376. Reserved.

Division 8. Nonconformities

Sec. 10-1377. Continuance of nonconformities.

Sec. 10-1378. Substantial improvement and substantial damage determinations.
Secs. 10-1379—10-1409. Reserved.

Division 9. Violations and Penalties

Sec. 10-1410. Uses in violation.
Sec. 10-1411. Civil remedies.
Sec. 10-1412. Enforcement.
Secs. 10-1413—10-1432. Reserved.

Division 10. Amendments

Sec. 10-1433. FEMA floodplain map revisions and new map annexations.
Sec. 10-1434. Required approval.
Secs. 10-1435—10-1461. Reserved.

Article X. Standard of General Applicability

Division 1. Generally

Sec. 10-1462. Accessory uses and structures.
Sec. 10-1463. Obstructions.
Sec. 10-1464. Basement dwellings.
Sec. 10-1465. Corner lots.
Sec. 10-1466. Through lots.
Sec. 10-1467. Exceptions to district setback and height restrictions.
Sec. 10-1468. Computation of rear yard with adjoining alley.
Sec. 10-1469. Computation of lot area with adjoining alley.
Sec. 10-1470. Decks, patios, balconies, and ramps in the R-1, R-2, R-3, R-4, and OR zoning districts.
Sec. 10-1471. Pools.
Secs. 10-1472—10-1490. Reserved.

Division 2. Special Provisions Applicable to Specific Permitted and Conditional Uses

Sec. 10-1491. Home occupations.
Sec. 10-1492. Child day care.
Sec. 10-1493. Bed and breakfast establishments.
Sec. 10-1494. Restaurants, bars, and other eating establishments, unenclosed service area or unenclosed seating area.
Sec. 10-1495. Drive-through facilities.
Sec. 10-1496. Automobile service stations and car washes.
Sec. 10-1497. Outside storage of materials, commercial, and industrial districts.
Sec. 10-1498. Substantial land alteration.
Sec. 10-1499. Environmentally sensitive areas—Slopes.
Sec. 10-1500. Environmentally sensitive areas—Wetlands.
Sec. 10-1501. Environmentally sensitive areas—Woodlands.
Sec. 10-1502. Water retention areas.
Sec. 10-1503. Aboveground storage and dispensing of flammable and combustible liquids.
Sec. 10-1504. Essential service utility structures and facilities.
Sec. 10-1505. Special requirements for recyclable material collection.

Sec. 10-1506. Indoor and outdoor firing ranges.
Sec. 10-1507. Extraction, stockpiling, and processing of minerals and materials.
Sec. 10-1508. Heritage preservation.
Sec. 10-1509. Designated heritage preservation landmarks and districts.
Secs. 10-1510—10-1536. Reserved.

Division 3. Adult Uses

Sec. 10-1537. Definitions.
Sec. 10-1538. Purpose.
Sec. 10-1539. General provisions.
Sec. 10-1540. Principal uses.
Sec. 10-1541. Accessory uses.
Sec. 10-1542. Nonconforming principal or accessory uses.
Sec. 10-1543. Enforcement.
Secs. 10-1544—10-1574. Reserved.

Division 4. Nonconformities

Sec. 10-1575. Purposes.
Sec. 10-1576. General scope and scheme of regulation.
Sec. 10-1577. Nonconforming uses.
Sec. 10-1578. Nonconforming structures.
Sec. 10-1579. Nonconforming lots.
Sec. 10-1580. Nonconforming junkyards.
Sec. 10-1581. Nonconforming parking, driveway, and driving surfaces.
Sec. 10-1582. Nonconforming accessory uses and structures.
Sec. 10-1583. Burden of owner to establish legality of nonconformity.
Secs. 10-1584—10-1609. Reserved.

Division 5. Off-Street Parking

Sec. 10-1610. Scope of regulations.
Sec. 10-1611. Existing parking facilities.
Sec. 10-1612. Exemption of required parking spaces.
Sec. 10-1613. Voluntary or required provision of additional parking facilities.
Sec. 10-1614. Parking of commercial vehicles or equipment.
Sec. 10-1615. Parking and storage of certain vehicles.
Sec. 10-1616. Submission of a site plan.
Sec. 10-1617. Location of parking spaces.
Sec. 10-1618. Parking in required yards.
Sec. 10-1619. General parking provisions.
Sec. 10-1620. Utilization of required parking spaces.
Sec. 10-1621. Handicap parking.
Sec. 10-1622. Compact parking stalls.
Sec. 10-1623. Off-street parking dimensions.
Sec. 10-1624. Provision for collective parking.
Sec. 10-1625. Parking spaces for accessory uses.
Sec. 10-1626. Calculation of parking space requirements for mixed-use developments.
Sec. 10-1627. Determination of required number of parking spaces for uses not specified herein.
Sec. 10-1628. Standards and units of measurement to determine off-street parking.

Sec. 10-1629. Schedule of shared parking calculation.
Sec. 10-1630. Parking requirements.
Secs. 10-1631—10-1658. Reserved.

Division 6. Off-Street Loading

Sec. 10-1659. Scope of regulations.
Sec. 10-1660. Existing parking facilities.
Sec. 10-1661. Voluntary provision of additional parking facilities.
Sec. 10-1662. Location of off-street loading areas.
Sec. 10-1663. Access of off-street loading areas.
Sec. 10-1664. Utilization of off-street loading areas.
Sec. 10-1665. Size of off-street loading areas.
Sec. 10-1666. Vertical clearance of off-street loading areas.
Sec. 10-1667. Minimum facilities required for off-street loading areas.
Sec. 10-1668. Central or joint loading.
Sec. 10-1669. General off-street loading provisions.
Sec. 10-1670. Schedule of off-street loading requirements.
Secs. 10-1671—10-1693. Reserved.

Division 7. Signs

Sec. 10-1694. Intent.
Sec. 10-1695. Definitions.
Sec. 10-1696. Permit and sign plan required.
Sec. 10-1697. Exempted signs; no permit.
Sec. 10-1698. Prohibited signs.
Sec. 10-1699. General requirements.
Sec. 10-1700. Administration and enforcement.
Sec. 10-1701. Nonconforming signs.
Sec. 10-1702. Landscaping requirements.
Sec. 10-1703. District permitted on-premises signs.
Sec. 10-1704. Off-premises signs (outdoor advertising).
Sec. 10-1705. Downtown Design Review District.
Sec. 10-1706. Skyline Logo District.
Secs. 10-1707—10-1735. Reserved.

Division 8. Landscaping and Screening

Sec. 10-1736. General landscaping and maintenance requirements.
Sec. 10-1737. Applicability.
Sec. 10-1738. Landscape plans.
Sec. 10-1739. Transitional yards.
Sec. 10-1740. Perimeter landscaping; off-street parking lots.
Sec. 10-1741. Interior landscaping; off-street parking lots.
Sec. 10-1742. Off-street loading areas.
Sec. 10-1743. Refuse containers.
Sec. 10-1744. Antennas and support structures.
Sec. 10-1745. Rooftop mechanical equipment.
Sec. 10-1746. Fences.
Secs. 10-1747—10-1770. Reserved.

Division 9. Performance Standards

Sec. 10-1771. General requirements.
Sec. 10-1772. Noise.
Sec. 10-1773. Glare and heat.
Sec. 10-1774. Exterior lighting.
Sec. 10-1775. Dust and air pollution.
Sec. 10-1776. Electromagnetic interference.
Sec. 10-1777. Odors.
Sec. 10-1778. Storage.
Sec. 10-1779. Compliance.
Secs. 10-1780—10-1806. Reserved.

Division 10. Site Plan Review

Sec. 10-1807. Authority.
Sec. 10-1808. Purpose.
Sec. 10-1809. Scope of application.
Sec. 10-1810. Scope of modifications authorized.
Sec. 10-1811. Site plan review committee.
Sec. 10-1812. Site plan content.
Sec. 10-1813. Effect of approval of site plan.
Sec. 10-1814. Appeals.
Sec. 10-1815. Fees.
Secs. 10-1816—10-1833. Reserved.

Article XI. Administration and Enforcement

Division 1. Generally

Secs. 10-1834—10-1854. Reserved.

Division 2. Administration

Sec. 10-1855. Summary of authority.
Sec. 10-1856. Authority.
Sec. 10-1857. Zoning administrator.
Sec. 10-1858. Board of adjustments and appeals.
Sec. 10-1859. Planning agency.
Sec. 10-1860. City council.
Secs. 10-1861—10-1878. Reserved.

Division 3. Conditional Use Permits

Sec. 10-1879. Authority.
Sec. 10-1880. Purpose.
Sec. 10-1881. Persons entitled to seek permits.
Sec. 10-1882. Procedure.
Sec. 10-1883. Standards.
Sec. 10-1884. Sequence of approval of applications for both a conditional use and a variance.
Sec. 10-1885. Conditions.

Sec. 10-1886. No presumption of approval.
Sec. 10-1887. Effect of approval.
Sec. 10-1888. Limitations.
Sec. 10-1889. Fee.
Secs. 10-1890—10-1906. Reserved.

Division 4. Planned Unit Developments

Sec. 10-1907. Authority.
Sec. 10-1908. Purpose.
Sec. 10-1909. Public benefit.
Sec. 10-1910. General provisions.
Sec. 10-1911. Site design.
Sec. 10-1912. Minimum area.
Sec. 10-1913. Application procedure.
Sec. 10-1914. Standards.
Sec. 10-1915. Time limit on approved planned unit development.
Sec. 10-1916. Effect of approval of a planned unit development.
Sec. 10-1917. Regulations during and following completion of development.
Sec. 10-1918. Adjustments to the development site plan.
Sec. 10-1919. Fee.
Secs. 10-1920—10-1936. Reserved.

Division 5. Variances

Sec. 10-1937. Authority.
Sec. 10-1938. Purpose.
Sec. 10-1939. Parties entitled to seek variances.
Sec. 10-1940. Procedure.
Sec. 10-1941. Standards.
Sec. 10-1942. Conditions on variances.
Sec. 10-1943. Effect of grant of variance.
Sec. 10-1944. Limitations on variance.
Sec. 10-1945. Prohibited variances.
Sec. 10-1946. Fee.
Secs. 10-1947—10-1975. Reserved.

Division 6. Certificate of Occupancy and Building Permits

Sec. 10-1976. Authority.
Sec. 10-1977. Purpose.
Sec. 10-1978. Certificate required.
Sec. 10-1979. Procedure.
Sec. 10-1980. Temporary certificate of occupancy.
Sec. 10-1981. Certificate of occupancy for existing uses.
Sec. 10-1982. Certificate of occupancy for legal nonconforming uses.
Sec. 10-1983. Void certificates of occupancy and building permit.
Secs. 10-1984—10-2004. Reserved.

Division 7. Enforcement

Sec. 10-2005. Authority.

Secs. 10-2006—10-2033. Reserved.

Division 8. Administrative Interpretations

Sec. 10-2034. Authority.
Sec. 10-2035. Purpose.
Sec. 10-2036. Parties entitled to seek interpretations.
Sec. 10-2037. Procedure.
Sec. 10-2038. Standards for use interpretations.
Sec. 10-2039. Effect of favorable use interpretations.
Sec. 10-2040. Limitations on favorable use interpretations.
Secs. 10-2041—10-2058. Reserved.

Division 9. Amendments

Sec. 10-2059. Authority.
Sec. 10-2060. Purpose.
Sec. 10-2061. Parties entitled to initiate.
Sec. 10-2062. Requirements for petitions.
Sec. 10-2063. Standards.
Sec. 10-2064. Procedure for review and decision.
Sec. 10-2065. Fees.
Secs. 10-2066—10-2093. Reserved.

Division 10. Appeals

Sec. 10-2094. Authority.
Sec. 10-2095. Purpose.
Sec. 10-2096. Stay of proceedings.
Sec. 10-2097. Procedure.
Sec. 10-2098. Right to grant variances.
Sec. 10-2099. Conditions and limitations on rights granted.
Sec. 10-2100. Fees.
Secs. 10-2101—10-2118. Reserved.

Article XII. Subdivision and Development Regulations (Platting)

Division 1. Generally

Sec. 10-2119. Interpretation.
Sec. 10-2120. Purpose.
Sec. 10-2121. Jurisdiction.
Sec. 10-2122. Definitions.
Secs. 10-2123—10-2147. Reserved.

Division 2. Procedure

Sec. 10-2148. Concept plan review.
Sec. 10-2149. Disagreement.
Sec. 10-2150. Preliminary plat submission.
Sec. 10-2151. Review and action.

Sec. 10-2152. Final plat.
Sec. 10-2153. Submission requirement.
Sec. 10-2154. Partial final plat.
Sec. 10-2155. Planning commission.
Sec. 10-2156. Lapse of preliminary approval.
Sec. 10-2157. Data required for preliminary plat.
Secs. 10-2158—10-2187. Reserved.

Division 3. Design Standards

Sec. 10-2188. General requirements.
Sec. 10-2189. Streets.
Sec. 10-2190. Easements.
Sec. 10-2191. Block standards.
Sec. 10-2192. Lot standards.
Sec. 10-2193. Public sites and open spaces.
Secs. 10-2194—10-2214. Reserved.

Division 4. Data Required for Final Plat

Sec. 10-2215. General requirements.
Secs. 10-2216—10-2243. Reserved.

Division 5. Basic Improvements Required

Sec. 10-2244. Approval and agreement requirement of plat.
Sec. 10-2245. Sanitary and storm drains.
Sec. 10-2246. Water supply.
Sec. 10-2247. Street improvements.
Sec. 10-2248. Street trees.
Sec. 10-2249. Public utilities.
Secs. 10-2250—10-2266. Reserved.

Division 6. Variances

Sec. 10-2267. General conditions.
Secs. 10-2268—10-2287. Reserved.

Division 7. Planned Unit Developments (PUD)

Sec. 10-2288. Application.
Secs. 10-2289—10-2314. Reserved.

Division 8. Registered Land Surveys (RLS)

Sec. 10-2315. Application.
Secs. 10-2316—10-2338. Reserved.

Division 9. Conformance to Article X (Land Use)

Sec. 10-2339. Final approval does not relieve obligation.
Secs. 10-2340—10-2356. Reserved.

Division 10. Fee

Sec. 10-2357. Preliminary and final plat.
Secs. 10-2358—10-2377. Reserved.

Division 11. Extension of Subdivision Regulations

Sec. 10-2378. Regulations to include unincorporated territory within two miles.
Sec. 10-2379. Exceptions.
Sec. 10-2380. Simple lot divisions.

ARTICLE I. IN GENERAL

Sec. 10-1. Scope.

(a) *Provisions are minimum requirements.* In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of public health, safety, comfort and general welfare. When the provisions of this chapter impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this chapter shall be controlling. When any statute, other ordinance, or regulation, impose greater restrictions than those of this chapter, the provisions of such statute, other ordinance, or regulation shall be controlling.

(b) *Provisions are cumulative.* The provisions of this chapter shall be interpreted to be cumulative of, and to impose limitations in addition to all other codes, laws, ordinances, and regulations in existence or which may be passed governing any subject matter of this chapter. Several provisions of this chapter also shall be interpreted to be cumulative of each other. To the greatest extent possible, the provisions of this chapter shall be construed to be consistent with, and not conflict with, the provisions of such other codes, laws, ordinances, and regulations, and with each other, to the end that all such provisions may be given their fullest application.

(c) *Provisions are not a consent, license, or permit.* The provisions of this chapter shall not be interpreted to be or to grant a consent, license, or permit to use any property or to establish, locate, construct, or maintain any structure or use, or to carry on any trade, industry, occupation, or activity.

(d) *Unlawful uses and structures are not validated.* This chapter shall not be interpreted to validate or make lawful any unlawful use or structure existing upon the effective date of the ordinance from which this chapter is derived. Any such unlawful use or structure shall remain unlawful to the extent that the use or structure is in conflict with provisions of this chapter.
(Code 2015, § 10.01)

Sec. 10-2. Definitions.

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

Accessory structure means a structure detached from, but located on the same lot as the principal structure or principal use, the use of which is incidental and accessory to that of the principal structure or principal use.

Accessory use means a use incidental to and on the same lot as a principal use.

Adjacent means adjoining, bordering, touching, or contiguous. If two lots are separated by a public street, they shall not be deemed to be adjacent. If separated by a public alley or public walk, they shall be deemed adjacent.

Agriculture means the use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for storing the products. The term "agriculture" shall include incidental retail sales by the producer of products raised on the farm.

Airport means an area of land designated and set aside for the landing and take-off of aircraft, including all necessary facilities for the maintenance and upkeep of aircraft.

Alley means any public right-of-way or private way whose primary function is to furnish vehicular access to the side or rear of properties having their main frontage on a street. The term "alley" shall not be considered the same as the term "street."

Apartment means a dwelling unit within a house or building containing two or more similar units. Each apartment is intended to be occupied by a single housekeeping unit. (See *Family.*)

Apartment house/*building* means a building containing three or more apartments. (See *Dwelling, multifamily.*)

Arcade means an area contiguous to a street or plaza that is open and unobstructed to a height of not less than 12 feet, and which is accessible to the public at all times. Any portion of an arcade occupied by building columns, landscaping, statuary, pools, or fountains shall be considered part of the arcade for the purpose of computing a floor-area premium credit. The term "arcade" shall not include off-street loading areas, driveways, off-street parking areas or open pedestrian walkways. The floor of any arcade shall be level with the adjoining street or plaza.

Arcade, internal, means a street arcade that fronts on and adjoins a plaza or other space internal to a building lot rather than the front lot line.

Arcade, street, means an arcade that adjoins a front lot line, is not less than ten feet nor more than 30 feet in depth (measured perpendicular to the front lot line), and extends the full length of, or at least 50 feet along the front lot line, whichever is the greater distance; or on a corner lot, is bounded on two sides by the two intersecting street lines, and has an area of not less than 500 square feet and a minimum linear dimension of ten feet.

Automobile repair garage means any building or premises primarily used for the repair or mechanical maintenance of motor vehicles or trailers.

Automobile service station means any building or premises primarily used for dispensing gasoline or diesel fuel.

Automobile wrecking yard and *junkyard* mean land or buildings where discarded or salvaged materials from wrecked motor vehicles or other vehicles or machinery are bought, sold, stored, exchanged, packed, assembled, disassembled, or handled, including, but not limited to, scrap metal, rags, paper, tires, and rubber products.

Bed and breakfast residence means an owner-occupied, single-family residence situated either in a unique locale or in a historically or architecturally significant structure and provides lodging and meals to registered guests.

Bed and breakfast, accessory use, means an activity which is permitted in the same underlying residential district and which is incidental and secondary to the bed and breakfast residence.

Bedroom means any room used principally for sleeping purposes and does not contain separate kitchen and sanitary facilities.

Board of adjustments and appeals means the city council sitting as a governing board exercising the authority to grant variances from the numeric requirements of this chapter, and to hear and decide appeals from an administrative decision or enforcement order of the zoning administrator.

Buffer area means a landscaped area intended to separate or partially obstruct the view of adjacent land uses or properties from one another.

Building means a structure built upon the surface of the earth and used, or intended to be used, for any use or occupancy. A fence shall not be considered a building for setback purposes. The term "building" is also referred to as a structure.

Building height means the vertical measurement of a structure measured from the average elevation of the finished ground grade within ten feet of the building to the highest point of the roof surface of a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs.

Building line means a line parallel to or concentric with the street right-of-way line, or any other property line, at the foundation level of a building and representing the distance which the building is set back from the street right-of-way line or other property line.

Bulk materials means uncontained solid matter such as powder, grain, stone, sand, etc.

Campground means an area or tract of land used or occupied by campers using tents or other portable shelters or vehicles designed specifically as their temporary housekeeping accommodations.

Canopy and *awning* mean any projecting structure, moveable or stationary, that is attached to and supported by a building. The terms "canopy" and "awning" do not include canopies covering fuel-dispensing islands at automobile service stations.

Carwash means a building that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. The term "carwash" is also referred to as an automobile wash.

Cemetery means land used for the burial of the dead, including crematories and mausoleums when operated in conjunction within the boundaries of such cemetery.

Child care (commercial) means a building or portion of a building where care, protection, and supervision are provided for a fee on a regular basis for children of any age.

Child care (home) means a private residence where care, protection, and supervision are provided for a fee for children of any age, and the persons providing care reside at the residence.

Church or *place of religious worship* means an institution that people regularly attend to participate in or hold religious services, meetings, and other related activities.

Clinic means a place used for the diagnosis and treatment of sick, ailing, infirm, injured persons, and those persons who are in need of medical attention. Overnight care facilities are not provided at the clinic.

Club or *lodge* means land, buildings, or premises owned or operated by a corporation, association, or group of individuals for a social, educational, recreational, charitable, political, or patriotic purpose and such land, buildings, or premises are not available for unrestricted public access and use.

Commercial use means an occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

Commercial vehicle means any vehicle used in connection with a commercial use.

Community center means a place, structure, area, or other facility used for and providing religious, fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community. The term "community center" may also be referred to as a convention center or civic center.

Conditional use means a use that, owing to some special circumstances pertaining to its location or operation, may be permitted in a district subject to approval by the city council and is subject to conditions approved by the council.

Congregate housing means a residential facility for four or more elderly persons (aged 60 years or older) within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments, and counseling. The term "congregate housing" may also be referred to as an assisted living facility.

Convenience store means a retail establishment, having a maximum gross floor area of 7,500 square feet, offering for sale prepackaged food products, household items, and other goods commonly associated with this type of store. A convenience store may also be combined with an automobile service station.

Cul-de-sac means a local street, one end of which is closed and consists of a circular turnaround.

Deck, attached, means a structure within six feet of the main building that may or may not have railings or access to the ground but does not contain walls or a roof. The term "attached deck" may also be referred to as a balcony.

Deck, unattached, means a structure six feet or more from the main building that may or may not have railings or access to the ground but does not contain walls or a roof.

Density means the number of dwellings or principal buildings or uses permitted per net acre of land. The term "net acres of land" shall not include land required for public streets.

Development means all structures and other human modifications of the natural landscape.

Dormitory means a building used as group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or similar use. Dormitories do not contain separate dwelling units.

Drinking establishments means any premises where alcoholic or nonalcoholic beverages are sold at retail for consumption on the premises. Snack foods may be available, but not as a complete meal. The term "drinking establishments" also refers to bars or saloons, coffee houses, or teen centers.

Drive-in facility means any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle, also referred to as a drive-through.

Driveway means a private way used by vehicles to gain access to an individual lot or parcel of land. For one- and two-family dwellings, the driveway shall be defined as the length and width of a driving surface that is used to gain access to a private garage.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy, including one-family, two-family and multiple-family dwelling units, and apartment buildings, but not including units used for occupancy in hotels or motels. The term "dwelling" may also refer to a residence or residential building.

Dwelling, multifamily, means a residential building used for occupancy by three or more families living independently of each other and containing three or more dwelling units, but not including group houses, row houses, townhouses, or dormitories.

Dwelling, one-family, attached, (group, row, or townhouse) means one of two or more residential dwellings joined to other dwellings by a common wall without openings and with individual entrances to each dwelling from the exterior. Each dwelling unit shall have principal access onto the ground floor and shall be occupied by not more than one family.

Dwelling, one-family, detached, means a residential building containing not more than one dwelling unit and entirely surrounded by open space and yards located on the same lot.

Dwelling, two-family, means a residential building containing not more than two dwelling units, but not including group, row, or townhouses. The term "two-family dwelling" may also be referred to as a duplex.

Dwelling unit means one or more rooms physically arranged so as to create an independent housekeeping unit for occupancy by one family. A dwelling unit contains separate toilet, cooking, and sleeping accommodations. Dwelling units may be rented or owner-occupied and may also be called a residence or roominghouse dwelling unit.

Easement means the right of a person, government agency, or public utility to use public or private property for a specific purpose.

Emergency shelter means a nonprofit, charitable, or religious organization providing boarding or lodging and ancillary services on the premises to primarily indigent, needy, homeless, or transient persons.

Essential service utility structure and facility includes, but is not limited to, a structure or facility used for the location, maintenance or service of communication lines, natural gas, petroleum pipelines, television cables, or electrical transmission lines.

Family means an individual or two or more persons related by blood, marriage, or adoption, or a group of not more than five unrelated persons, living together as a single housekeeping unit within a dwelling unit, as distinguished from individuals or a group occupying a hotel, motel, club, lodge, sorority, fraternity, or dormitory.

Family, functional, means a collective group of unrelated persons residing in a single dwelling unit, limited to not more than two adult persons, together with their traditional family members of any age.

Family, traditional, means one or more persons related by blood or marriage residing in a single dwelling unit.

Fence means any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Floor area means the sum of the gross horizontal area of all floors of a building as measured from the exterior faces of the exterior walls.

Floor area, livable or usable, means the sum of the gross horizontal area of all floors of a building as measured from the interior faces of the interior walls, excluding the areas of unoccupied cellars, accessory garages, porches, attics, basements, stairways, bathrooms, and utility and heating rooms.

Floor area ratio (FAR) means the floor area of the buildings on a lot divided by the area of that lot or, in the case of planned developments, the sum of the floor area of all buildings divided by the gross site area.

Fraternity or sorority house means a building that is occupied solely by a group of university or college students who are associated together in a fraternity or sorority chartered by a national or international fraternity or sorority, or officially recognized by the university or college, and who receive from the fraternity or sorority their lodging or meals on the premises for compensation.

Frontage means the length of any one property line of a lot that abuts a public street. All sides of a lot adjacent to public streets shall be considered frontage, and yards shall be provided as indicated in this chapter.

Funeral home means a building or part thereof used for human funeral services. Such building may contain space and facilities for:

(1) Embalming and the performance of other services used in the preparation of the dead for burial.

(2) The performance of autopsies and other surgical procedures on the dead.

(3) The storage of caskets, funeral urns, and other related funeral supplies.

(4) The storage of funeral vehicles.

A funeral home shall not include facilities for cremation, unless allowed by a conditional use permit. A funeral chapel shall be considered an accessory use to a funeral home.

Garage, private, means an accessory use situated on the same lot of the principal use, and designed for the private storage of motor vehicles owned by the occupant of a principal use. No

facilities for mechanical service or repair of a commercial or public nature are provided in the private garage. Such garage may be attached to the principal building or detached from the principal building. When a private garage is attached to a principal building, it shall be considered part of the principal building for setback and yard purposes.

Garage, public, means a building designed and used for the storage of automobile vehicles and operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles. Parking ramps shall be included within this definition.

Grade, ground, means the average elevation of the finished ground levels measured at the center of all exterior walls of a building.

Ground coverage. See *Lot coverage.*

Group home means a state-licensed residential facility as defined by state law.

Grouped housing project means two or more dwellings located on a single lot or parcel. See *Planned unit development.*

Home occupation means an accessory use of a dwelling unit, conducted entirely within the dwelling unit, carried on by one or more persons, all of whom reside within the dwelling unit, and no persons are employed at the dwelling unit other than the residents living therein. The home occupation shall be clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential zoning district.

Hospital means an institution providing health services for human in-patients and medical or surgical care for the sick or injured. The term "hospital" includes related facilities such as laboratories, outpatient departments, training facilities, central service facilities, staff offices, and overnight accommodations for patients.

Hotel means an establishment where food and lodging are regularly furnished to transients, and which has:

(1) A dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; or

(2) Guest rooms in the following minimum numbers: in first class cities, 50; in second class cities, 15; in all other cities and unincorporated areas, ten.

Illustrations. The illustrations in this chapter are not a part of this chapter, but are included herein for the purposes of explanation and clarification.

Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include, but are not limited to, rooftops, sidewalks, patios, storage areas, roads, streets, driveways, and parking lots constructed of concrete, asphalt, or compacted aggregate.

Industrial park means a planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design, orientation, and open space.

Industry, heavy, means a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of or manufacturing process using flammable, or explosive materials, or a storage or manufacturing process that potentially involves hazardous or commonly recognized offensive conditions.

Industry, light, means a use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, storage, sales, and distribution of such products.

Junkyard means land or buildings at which waste material, refuse material, inoperative motor vehicles, inoperative machinery, and inoperative appliances, are collected, stored, salvaged, or sold.

Kennel means an establishment licensed to operate a facility housing dogs, cats or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business or commercial use.

Kennel, private, means any accessory use arranged for the care and sheltering of household pets belonging to the owner of the property on which the kennel is located.

Laundry, self-service, means a business that provides home-type washing and drying machines to be used by customers on the premises.

Lot means a piece of land occupied or intended to be occupied by a principal use and its accessory uses together with such open space and yards as is required by this chapter, and having at least the minimum area, frontage, and width as required by this article and as required in article XII of this chapter. The term "lot" is also referred to as a parcel, tract, property, or piece.

Lot area means the total horizontal area within the lot lines of a lot.

Lot coverage means the area of the lot covered by buildings or roofed areas, excluding permitted projecting eaves.

Lot depth means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line.

Lot of record means a lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.

Lot width means the horizontal distance between the side lot lines measured at the required front yard setback line.

Lot, conforming, means a lot that conforms to the minimum width, area, and frontage requirements of this article and article XII of this chapter.

Lot, corner, means a lot abutting, and at the intersection, of two or more streets. A corner lot shall be considered as having primary frontage abutting the required front yard and secondary frontage abutting a corner side yard.

Lot, interior, means an interior lot is a lot other than a corner lot or through lot.

Lot, nonconforming, means a lot or parcel of land that has less than the required minimum area, width, and frontage as required by this article and article XII of this chapter, also referred to as a substandard lot.

Lot, through, means a lot having front and rear lot lines abutting a public street.

Manufactured home means a structure, not affixed to or part of real estate, 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 onsite, 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 includes the plumbing, heating, air conditioning, and electrical systems contained in it.

Manufactured housing applies to either:

(1) A factory-built one-family structure built and transported in sections to a permanent site and not intended for additional transportation once it has been placed on a permanent site.

(2) A transportable, factory-built home, designed to be used as a year-round, residential dwelling. Such structure has wheels or axles permanently attached to its frame. Such structures, built prior to June 15, 1976, are referred to as manufactured homes.

Motor vehicle means the same as defined by section 11-35. The term "motor vehicle" may also be referred to as an automobile, vehicle, car, truck, or trailer.

Nonconforming building means any building that does not meet zoning district regulations for building size, building height, lot coverage, or setback.

Nonconforming use means a use of land that does not comply with the use regulations of this chapter.

Nursing home means a place, residence, or home used for the boarding and care of the elderly or infirm who are dependent upon the services of others.

Office means a building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Open space, common, means open space within or related to a development designed and intended for the common use or enjoyment of the occupants of the development. Parking or driveways shall not be considered permitted open space.

Outside storage means the keeping in an unroofed area of any goods, bulk material, other materials, merchandise, or products for more than 24 hours, also referred to as unenclosed storage.

Park means any public or private land available for recreational, educational, cultural, or aesthetic use.

Parking, joint, means the development and use of a parking space or parking lot by two or more separate developments.

Parking lot means an unenclosed or enclosed area used for the temporary parking of four or more motor vehicles.

Parking space or stall means an obstructed space or area of such dimension and construction in conformance with this chapter that is permanently reserved and maintained for the parking of one motor vehicle.

Patio means an attached or unattached structure at ground level that does not contain walls or a roof, and is not used for parking purposes.

Performance guarantee means a financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.

Performance standards means a set of minimum and maximum design and performance requirements applied to permitted and conditional uses.

Planned unit development (planned development) means an area for which a unitary development plan has been prepared indicating, but not being limited to, the following land uses: open space, on-site circulation for both pedestrians and vehicles, parking, setbacks, housing densities, building spacing, land coverage, landscaping, relationships, streets, building heights, accessory uses, and architectural treatment. A planned unit development also includes cluster developments. The term "cluster developments" means a development design technique that concentrates buildings in a specific area on a site to allow the remaining land to be used for recreation, common open space, or preservation of environmentally sensitive areas.

Planning agency means the planning commission and the planning department as they function together.

Plaza means an open area at ground level, which is accessible to the public at all times and is unobstructed from its lowest level to the sky. Any portion of a plaza occupied by landscaping, statuary, pools, and open recreation facilities shall be considered to be part of the plaza for the purpose of computing a floor area premium credit. The term "plaza" shall not include off-street loading areas, driveways, off-street parking areas or pedestrian ways accessory thereto. Plazas shall be continuous areas of not less than 750 square feet and not more than 8,000 square feet. A plaza shall not at any point be more than five feet above, nor more than 12 feet below, the curb level of the nearest adjoining street, and shall be unobstructed from its lowest level to the sky, except for arbors or trellises, awnings or canopies, railings not less than 50 percent open and not exceeding three feet eight inches in height, flagpoles, open terraces or porches, steps, ornamental fountains or statuary, or unenclosed balconies.

Pool means any structure, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational use, including special purpose pools and wading pools.

Private residential pool means a pool connected with a single-family residence or owner-occupied duplex, located on private property under the control of the homeowner, the use of which is limited to family members or the family's invited guests. The term "private residential pool" does not include a pool used as part of a business.

Public pool has the meaning given in M.S.A. § 144.1222, subd. 4, para. (d).

Recycling center means a building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Recycling collection point means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of items is permissible.

Restaurant, bar, and *drinking establishment.*

Bar means any premises where alcoholic and nonalcoholic beverages are sold at retail for consumption on the premises. The liquor license for a bar shall be classified as Class RB or Class B as defined by chapter 3, also referred to as a saloon, club, pub, or other use similar to this definition.

Nonalcoholic drinking establishment means any premises where nonalcoholic beverages are sold at retail for consumption on the premises. Snack foods may be available, but not as a complete meal, also referred to as a coffee house, dance club, teen center, or similar use.

Restaurant means a business that sells unpackaged food to the customer in a ready-to-consume state, in individual servings, where the customer consumes these foods in the building, picks up food from the building to consume elsewhere, or the food is delivered to the customer by employees of the restaurant and establishments. If liquor is served in the establishment, the liquor license shall be classified as a Class R license as defined by chapter 3. Kitchen facilities shall be capable of service the permitted occupancy. The term "restaurant" includes, but is not limited to, fast food restaurants, sit down restaurants, pick-up or carry-out restaurants, delivery restaurants, drive-in restaurants, drive-through restaurants, cafes, tea rooms, delis, and any combination thereof. The term "restaurant" may also refer to an eating establishment.

School means a public or private facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary, junior high schools, and high schools.

Screen means the utilization of a fence, wall, vegetation, or other device or means, in order to conceal from view.

Self-service storage facility means a commercial building or group of buildings that contain varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customers' goods or wares.

Setback means the required minimum horizontal distance between a building line and the related front, side, or rear property lines.

Shopping mall means two or more commercial or business uses joined to each other by a common wall without openings and each with individual entrances. Each use shall have principal access to the outside (strip mall) or to a common enclosed area (enclosed mall).

Sign means any name, identification, description, display, illustration, structure, emblem, or device which is affixed to, painted, or represented upon a building, bench, or other outdoor structure, vehicle, or piece of land, which is intended to direct attention to an object, product, place, activity, person, organization, or business. The structure supporting or intended to support a sign shall be considered part of the sign.

Site plan means a document or group of documents containing sketches, text, drawings, maps, photographs, and other material intended to present and explain certain elements of a proposed development, including physical design, siting of buildings and structures, interior vehicular and pedestrian access, parking lots, the provision of improvements, and the interrelationship of these elements.

State-licensed residential facility means a dwelling operated under state license to provide supervision, food, lodging, or other services to a dependent population living and cooking together in a single cooperative housekeeping unit. The term "state-licensed residential facility" includes state-licensed day care facilities and group day care facilities.

Street means a public or private thoroughfare used, or intended to be used, for travel by motor vehicles. Streets are further classified by the function they perform as follows: local, collectors, and arterials. Public alleys shall not be considered streets.

Townhouse means one of a group of one-family attached dwellings all fronting on a public right-of-way or private driveway, and occupying either individual lots or a common lot when developed in grouped housing projects or planned unit developments.

Trash enclosure means an accessory use of a property where trash or recyclable material containers, or any other type of waste or refuse container is stored.

Unrelated individuals means two or more individuals who are not related by blood, marriage, or adoption. The term "related by blood" shall mean whole or half relation between a common ancestor or descendant, husband, wife, son, daughter, father, mother, brother, sister, uncle, aunt, niece, nephew, stepchildren, legally adopted children, grandmother, grandfather, state assigned foster children, first cousin, or any combination of the above persons.

Used for includes the phrases "arranged for," "designed for," "intended for," and "occupied for."

Variance means the adjustment by the board of adjustments and appeals of the literal provisions of this chapter in cases where the literal provisions would cause undue hardship because of physical circumstances unique to an individual property. Variances shall be limited to height, bulk, density, and yard requirements.

Water retention device or area means any constructed control device, ponding area or stormwater pond, or a natural depression or wetland installed or planned for under a state approved surface water management plan which provides for the temporary storage of stormwater runoff, with the purpose of replicating pre-development hydrologic conditions and retaining sediment or nutrients.

Yard means an open space on the same zoning lot with a building that is occupied by that building or any other structure, and excluding loading and parking areas, except as otherwise permitted in this chapter.

Yard, corner side, means a yard extending across the full depth of a corner lot and having a width equal the shortest distance between the right-of-way line along the lot's secondary frontage and the building line of the main building.

Yard, front, means a yard extending across the full width of a lot and having a depth equal to the shortest distance between the front lot line and the building line of the main building, including any enclosed or covered porches, as measured from the existing or future right-of-way on which the lot has primary frontage. The front yard depth shall be measured at right angles to the front property line.

Yard, rear, means a yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear lot line and the building line of the main building, or a depth equal to the shortest distance between the most distant point on any other lot line and the building line of the main building in instances where there is no rear lot line. The rear yard depth shall be measured at right angles to the main building.

Yard, side, means a yard between the side lot line and the building line of the main building, which extends from the front yard to the rear yard and has a width equal to the shortest distance between the side lot line and the building line of the main building. The required side yard width shall be calculated at the front building line and the side yard width shall be measured at right angles to the side lot lines.

Zoning administrator means the staff or persons to whom the city manager has assigned the administrative responsibilities under this chapter.

Zoning lot means one or more lots which are used for a single principal use or planned unit development.

Zoning map, official, means the map incorporated into this chapter.
(Code 2015, § 10.02; Ord. of 3-27-2006; Ord. of 11-26-2007; Ord. No. O-2022-0509-2, § 10.02(114)—(116), 5-9-2022)

Sec. 10-3. Zoning districts and map.

(a) *Establishment of zoning districts.* To carry out the purpose of this chapter, the city is hereby divided into the following districts:

T	Transition District
R-1	One-Family Dwelling District
R-2	One- and Two-Family Dwelling District
R-3	Limited Multiple Dwelling District
R-4	Multiple Dwelling District
R-T	Residential Transition District
IO	Institutional Overlay District
MH	Manufactured Home Overlay District
O	Office District
OR	Office-Residential District

CBD-C	Central Business District-Core
CBD-F	Central Business District-Fringe
B-1	Community Business District
B-2	General Business District
B-3	Highway Business District
PI	Planned Industrial District
M-1	Light Industrial District
M-2	Heavy Industrial District

(b) *Interpretation of district sequence.* Each district, having been designed to accomplish a specific purpose and encourage a particular type of development, shall be interpreted as separate and distinct. The districts shall not be interpreted to be of a higher or lower class.

(c) *Map incorporated.* The location and boundaries of the zoning districts established by this section are as shown on a map entitled, "Zoning Map of Mankato, Minnesota," herein referred to as the official zoning map, which is by reference incorporated as part of this chapter. All notations, references, and other information shown on the official zoning map, and all amendments thereto, shall be as much a part of this chapter as if specifically set forth and literally described herein.

(d) *Omitted land.* It is the intent of this chapter that the entire area of the city, including all land and water areas, shall be included in the districts established by this chapter. Any area lying within the city but not shown on the official zoning map as being included in a district shall be deemed to be, and is hereby classified in the T district.
(Code 2015, § 10.03)

Sec. 10-4. Annexed land.

(a) *Annexation of land.* All land annexed to the city after the effective date of the ordinance from which this chapter is derived shall be classified automatically upon annexation as being in a T district.

(b) *Application for different classification.* When any land is classified pursuant to this chapter, it shall remain so classified unless and until an application to amend is filed pursuant to this chapter. An application to amend may be filed prior to or contemporaneously with the annexation of the land in question, provided a preliminary plat of the land is submitted with the amendment application.
(Code 2015, § 10.04)

Sec. 10-5. District boundaries.

(a) *District boundaries.* In the event that any uncertainty exists with respect to the intended boundaries of the various districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerline of highways, streets, alleys, waterways, railroads, or other rights-of-way, unless otherwise indicated, shall be construed to follow such centerlines.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of a change in a shoreline, the boundary shall be construed as moving with the actual shoreline.

(4) Boundaries indicated as approximately following the city limits shall be construed as following such city limits.

(b) *Single lot divided by a district boundary.* Where a district boundary line divides a lot which was a single ownership at the time of passage of the ordinance from which this chapter is derived, the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot may be interpreted by the zoning administrator upon request of the lot owner.

(c) *Maintenance and availability of the official zoning map.* A copy of the official zoning map shall be maintained by the zoning administrator and shall be available for public inspection during city business hours. Any amendments to zoning district boundaries or any change in any other information shown on the official zoning map made by amendment to the ordinance from which this chapter is derived shall be indicated on the copy of the official zoning map.
(Code 2015, § 10.05)

Sec. 10-6. District regulations.

(a) *Territorial application.* This chapter shall apply to all land, structures, and uses within the corporate limits of the city and as otherwise permitted by state laws.

(b) *General application.* All structures erected, all uses of land or structures established, all structural alteration or relocation of existing structures occurring, and all enlargements and extensions of, additions to, changes in, and relocation of existing uses occurring after the effective date of the ordinance from which this chapter is derived shall be subject to the regulations of this chapter. Legally existing structures and uses that do not comply with the regulations of this chapter shall be subject to the provisions of article X, division 4, of this chapter.

(c) *General prohibition.* No structure, no use of any structure or land, and no lot of record or zoning lot, now or hereafter existing, shall be established, enlarged, extended, altered, moved, divided or maintained in any manner after the effective date of the ordinance from which this chapter is derived, except as authorized by and in compliance with, the provisions of this chapter. Without limiting the foregoing, any such activity that would create any parcel of land that could not be developed in compliance with this chapter shall be prohibited and no parcel of land created as a result of any such activity shall be used or developed for any purpose.

(d) *Special prohibitions.*

(1) No part of a yard, or open space, or off-street parking space, or loading space required for a structure under the provisions of this chapter, shall be included as part of the yard, open space, or off-street parking or loading space similarly required for any other structure, unless otherwise permitted by this chapter.

(2) No building permit shall be issued for the erection of any building, structure, or addition to an existing building or structure, on land that has not been subdivided into lots and blocks in accordance with article XII of this chapter.

(e) *Private agreements.* This chapter is not intended to abrogate, annul, or otherwise interfere with any platted building line, easement, covenant, or other private agreement or legal relationship; provided, however, that where the regulations of this chapter are more restrictive or impose higher standards or requirements, the regulations of this chapter shall govern.
(Code 2015, § 10.06)

Sec. 10-7. Severability.

The provisions of this chapter shall be severable in accordance with the following rules:

(1) *Provisions declared invalid.* If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, such judgment shall not affect any other provisions of this chapter.

(2) *Application declared invalid.* If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter as to only a particular parcel of land, a particular structure, or a particular use, then such judgment shall not affect the application of the provision to any other land, structure, or use.
(Code 2015, § 10.07)

Secs. 10-8—10-32. Reserved.

ARTICLE II. RESIDENTIAL DISTRICTS

DIVISION 1. GENERALLY

Sec. 10-33. Accessory uses and structures.

Accessory uses and structures are permitted in the residential districts subject to the regulations of article X, division 1, of this chapter.
(Code 2015, § 10.11(1))

Sec. 10-34. Compliance with applicable regulations.

Any use established in a residential district after the effective date of the ordinance from which this chapter is derived shall comply with all applicable local, state, and federal standards for such uses, including, but not limited to, the control for noise, vibration, air pollution, fire and explosive hazards, toxic substances, water pollution, and glare.
(Code 2015, § 10.11(2))

Sec. 10-35. Off-street parking and loading.

Off-street parking and loading facilities shall be provided for the residential districts in accordance with the regulations set forth in article X, divisions 4 and 5, of this chapter.
(Code 2015, § 10.11(3))

Sec. 10-36. Landscaping and screening.

Landscaping and screening shall be provided for the residential district in accordance with the regulations set forth in article X, division 8, of this chapter.
(Code 2015, § 10.11(4))

Sec. 10-37. Signs.

Signs in the residential districts shall comply with the applicable sign regulations set forth in article X, division 7, of this chapter.
(Code 2015, § 10.11(5))

Sec. 10-38. Performance standards.

Requirements relating to performance standards in the residential districts are set forth in article X, division 9, of this chapter.
(Code 2015, § 10.11(6))

Sec. 10-39. State-licensed residential facility.

State-licensed residential facilities are allowed in all residential zoning districts pursuant to state laws, as amended from time to time. The regulation of residential occupancies contained in this chapter shall not apply to a state-licensed residential facility.
(Code 2015, § 10.11(7); Ord. of 6-28-1999)

Sec. 10-40. Residential occupancies.

(a) Residential occupancies of single-and two-family dwellings in the R-1 and R-2 districts shall be limited to functional family and traditional family as defined by this chapter. A traditional family or functional family may have one additional person residing with them for non-rental purposes or for the purposes of providing a housekeeping or personal service for the residents therein.

(b) Residential occupancies in the R-3, R-4, and OR districts shall conform to definitions of family and roominghouse dwelling unit as defined by this chapter.
(Code 2015, § 10.11(8); Ord. of 6-28-1999)

Sec. 10-41. General provisions.

Refer to article X of this chapter for additional standards and exceptions.
(Code 2015, § 10.11(9))

Sec. 10-42. Planned unit developments.

A planned unit development plan may be submitted for consideration by the city council for any property located in the residential zoning districts. Refer to article XI, division 4, of this chapter for submittal requirements and development standards.
(Code 2015, § 10.11(10))

Secs. 10-43—10-72. Reserved.

DIVISION 2. T TRANSITION DISTRICT

Sec. 10-73. Purpose.

The purpose of the T district is to provide a temporary designation for new territory annexed to the city for which no plans or controls have been adopted. New development and expansion of existing uses are prohibited unless otherwise provided for in the sections of this division.
(Code 2015, § 10.12(1); Ord. of 5-8-2006)

Sec. 10-74. Special minimum requirements.

The following are the special minimum requirements for the T district:

(1) Existing agricultural uses may continue.

(2) New development or subdivision of land is prohibited.

(3) Additions to animal production and related operations are prohibited.

(4) Building permits may only be issued for activities required for structural maintenance or interior remodeling. No additions to existing structures or the erection of a new structure shall be allowed.

(5) Building permits and approvals may be granted for the following activities:

a. Repair and expansion of existing essential utility structures and facilities; and

b. Repair and expansion of existing utility lines; and

c. Repair and extension of existing municipal facilities as regulated in chapter 17; and

d. Construction activities associated with public parks; and

e. Construction and expansion activities associated with municipal airports.

(Code 2015, § 10.12(2); Ord. of 5-8-2006)

Secs. 10-75—10-91. Reserved.

DIVISION 3. R-1 ONE-FAMILY DWELLING DISTRICT

Sec. 10-92. Purpose.

The purpose of the R-1 district, is to provide for low-density residential development.
(Code 2015, § 10.13(1))

Sec. 10-93. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the R-1 district:

(1) Dwellings, one-family.

(2) Gardens, provided no retail sales.

(3) Home occupations, as regulated by article X, division 2, of this chapter.

(4) Parks, playgrounds, tennis courts, and swimming pools.

(5) Schools, public and private elementary, middle, and secondary.
(Code 2015, § 10.13(2))

Sec. 10-94. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the R-1 district, subject to the regulations for conditional uses set forth in article XI, division 3, of this chapter:

(1) Bed and breakfast residences, as regulated in article X, division 2, of this chapter.

(2) Campgrounds within public parks.

(3) Cemeteries, crematories, and mausoleums.

(4) Child day care facilities, when not operated as a home occupation and as regulated in article X, division 2, of this chapter.

(5) Churches or places of religious worship, parish houses, rectories, and convents.

(6) Congregate housing.

(7) Dwellings, attached one-family dwellings, provided each dwelling is located on a separate lot conforming to section 10-95.

(8) Golf and country clubs.

(9) Government institutions, municipal buildings, museums, and libraries.

(10) Hospitals and medical clinics.

(11) Nursing homes and similar institutions.

(12) Other residential, institutional, or government service uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

(13) Parking lots providing off-street parking for a use permitted in a residential zoning district provided the parking lot is within 500 feet of the main building of the use.

(14) Public utilities, essential service utility facilities and structures, as regulated in article X, division 2, of this chapter.

(Code 2015, § 10.13(3))

Sec. 10-95. Minimum lot area.

(a) The minimum lot area in the R-1 district is 7,000 square feet for a one-family dwelling. Lots recorded prior to May 28, 1956, may have a minimum area of 5,500 square feet for a single-family dwelling.

(b) A minimum lot area of 8,000 square feet shall be provided for all other principal buildings and uses in the R-1 district.

(Code 2015, § 10.13(4))

Sec. 10-96. Minimum lot width.

The minimum lot width for the R-1 district is 60 feet and shall be measured at the front setback line. Lots recorded prior to May 28, 1956, may have a minimum lot width of 50 feet.

(Code 2015, § 10.13(5))

Sec. 10-97. Yards and setbacks.

The minimum yard and setback requirements for the R-1 district are as follows:

(1) *Front yard setback.* All buildings: a minimum of 30 feet.

(2) *Side yard setback.*

a. Dwellings: a minimum of six feet.

b. All other principal buildings and uses: ten percent of the lot width, provided the side yard width is a minimum of ten feet or a maximum of 30 feet.

c. Two side yards shall be required for each zoning lot.

(3) *Rear yard setback.*

a. Dwellings: a minimum of 25 feet.

b. All other principal buildings and uses: 25 percent of lot depth, provided the rear yard is a minimum of 25 feet or a maximum of 75 feet.

(4) *Transitional yard.* Transitional yard: none required.

(5) *Accessory buildings.* Accessory buildings shall not be allowed in the required front or side yards. Accessory buildings may be located in the rear yard, provided the building is located at least three feet from any property line.

(6) *Parking.* Except for the property's driveway, all parking surfaces shall be set back a minimum of three feet from any property line. Not more than 35 percent of the front, corner

side yard, or rear yard setbacks shall be hard surfaced or used for driveways or unenclosed motor vehicle parking. Motor vehicle parking shall not be allowed in the required side yard setback.

(Code 2015, § 10.13(6); Ord. of 2-9-2004)

Sec. 10-98. Maximum ground coverage.

The sum total of lot area that may be covered by all structures located on a zoning lot in the R-1 district shall not exceed 30 percent of the lot area. Accessory buildings shall occupy not more than 50 percent of the total area of a required rear yard.

(Code 2015, § 10.13(7); Ord. of 11-8-1999)

Sec. 10-99. Maximum floor area ratio.

There shall be no restriction to the maximum floor area ratio in the R-1 district.

(Code 2015, § 10.13(8))

Sec. 10-100. Maximum building height.

The maximum building height in the R-1 district is 35 feet. Accessory buildings shall not exceed a height of 20 feet. Refer to article X, division 1, of this chapter for exceptions.

(Code 2015, § 10.13(9))

Sec. 10-101. Minimum structural requirements.

The following shall be minimum structural requirements in the R-1 district: All structures used for residential occupancy shall have a minimum width of 20 feet at the structure's narrowest dimension and the structure shall be affixed to a continuous permanent perimeter foundation constructed of concrete block, poured concrete, or wood. All structures, either principal or accessory, shall be constructed in conformance with the uniform building code.

(Code 2015, § 10.13(10))

Secs. 10-102—10-130. Reserved.

DIVISION 4. R-2 ONE- AND TWO-FAMILY DWELLING DISTRICT

Sec. 10-131. Purpose.

The R-2 district is intended to provide for low- and medium-density residential development.

(Code 2015, § 10.14(1))

Sec. 10-132. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the R-2 district:

(1) Dwellings, one- and two-family and attached one-family.

(2) Gardens, provided no retail sales.

(3) Home occupations, as regulated by article X, division 2, of this chapter.

(4) Parks, playgrounds, tennis courts, and swimming pools.

(5) Schools, public and private elementary, middle, and secondary.

(Code 2015, § 10.14(2))

Sec. 10-133. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the R-2 district, subject to the regulations for conditional uses set forth in article XI, division 3, of this chapter:

(1) Bed and breakfast residences, as regulated in article X, division 2, of this chapter.

(2) Campgrounds within public parks.

(3) Cemeteries, crematories, and mausoleums.

(4) Child day care facilities, when not operated as a home occupation, and as regulated in article X, division 2, of this chapter.

(5) Churches or places of religious worship, parish houses, rectories, and convents.

(6) Congregate housing.

(7) Golf and country clubs.

(8) Government institutions, municipal buildings, museums, and libraries.

(9) Hospitals and medical clinics.

(10) Nursing homes and similar institutions.

(11) Other residential, institutional, or government service uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

(12) Parking lots providing off-street parking for a use permitted in a residential zoning district, provided the parking lot is within 500 feet of the main building of the use.

(13) Public utilities and essential service utility facilities and structures, as regulated in article X, division 2, of this chapter.

(Code 2015, § 10.14(3); Ord. of 1-14-2008)

Sec. 10-134. Minimum lot area.

The minimum lot area for the R-2 district is as follows:

(1) One-family (attached or detached): 6,000 square feet per dwelling unit. Lots recorded prior to May 28, 1956, may have a minimum size of 5,500 square feet for a one-family dwelling.

(2) Two-family: 8,000 square feet.

(3) All other uses: 8,000 square feet.

(Code 2015, § 10.14(4))

Sec. 10-135. Minimum lot width.

The minimum lot width for a one-family dwelling unit is 50 feet and shall be measured at the front setback line. The minimum lot width for all other uses in the R-2 district is 60 feet and shall be measured at the front setback line. Lots recorded prior to May 28, 1956, may have a minimum lot width of 50 feet.
(Code 2015, § 10.14(5))

Sec. 10-136. Yards and setbacks.

The minimum yard and setback requirements for the R-2 district are as follows:

(1) *Front yard setback.* All buildings: a minimum of 30 feet.

(2) *Side yard setback.*

a. Dwellings: a minimum of six feet.

b. All other principal buildings and uses: ten percent of lot width, provided the side yard is a minimum of ten feet or a maximum of 30 feet.

c. Two side yards shall be required for each zoning lot.

(3) *Rear yard setback.*

a. Dwellings: a minimum of 25 feet.

b. All other principal buildings and uses: 25 percent of lot depth, provided the yard is a minimum of 25 feet or a maximum of 75 feet.

(4) *Transitional yard.* Transitional yard: none required.

(5) *Accessory buildings.* Accessory buildings shall not be allowed in the required front or side yards. Accessory buildings may be located in the rear yard, provided the building is located at least three feet from any property line.

(6) *Parking.* Except for the property's driveway, all parking surfaces shall be set back a minimum of three feet from any property line. Not more than 35 percent of the front, corner side yard, or rear yard setbacks shall be hard surfaced or used for driveways or unenclosed motor vehicle parking. Motor vehicle parking shall not be allowed in the required side yard setback.
(Code 2015, § 10.14(6); Ord. of 2-9-2004)

Sec. 10-137. Maximum ground coverage.

The sum total of lot area that may be covered by all structures located on a zoning lot in the R-2 district shall not exceed 30 percent. Accessory buildings shall occupy not more than 50 percent of the total area of a required rear yard.
(Code 2015, § 10.14(7))

Sec. 10-138. Maximum floor area ratio.

There shall be no restriction to the maximum floor area ratio in the R-2 district.
(Code 2015, § 10.14(8))

Sec. 10-139. Maximum building height.

The maximum building height in the R-2 district is 35 feet. Accessory structures shall not exceed 20 feet in height. Refer to article X, division 1, of this chapter for exemptions.
(Code 2015, § 10.14(9))

Sec. 10-140. Minimum structural requirements.

The following shall be minimum structural requirements in the R-2 district: All structures used for residential occupancy shall have a minimum width of 20 feet at the structure's narrowest dimension and the structure shall be affixed to a continuous permanent perimeter foundation constructed of concrete block, poured concrete, or wood. All structures, either principal or accessory, shall be constructed in conformance with the uniform building code.
(Code 2015, § 10.14(10))

Secs. 10-141—10-163. Reserved.

DIVISION 5. R-3 LIMITED MULTIPLE DWELLING DISTRICT

Sec. 10-164. Purpose.

The R-3 district is intended to provide for medium-density residential development. The redevelopment or infill development within existing established neighborhoods shall ensure that buildings are compatible in mass and scale with those of buildings adjacent to the proposed development and maintain the traditional scale of buildings as seen along the street.
(Code 2015, § 10.15(1); Ord. of 12-9-2013)

Sec. 10-165. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the R-3 district:

(1) Dwellings, multiple-family, not to exceed eight units in one building or on one lot.

(2) Dwellings, one-family and two-family.

(3) Gardens, provided no retail sales.

(4) Home occupations, as regulated in article X, division 2, of this chapter.

(5) Parks, playgrounds, tennis courts, and swimming pools.

(6) Schools, public and private elementary, middle, and secondary.
(Code 2015, § 10.15(2))

Sec. 10-166. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the R-3 district, subject to the regulations for conditional uses set forth in article XI, division 3, of this chapter:

(1) Bed and breakfast residences, as regulated in article X, division 2, of this chapter.

(2) Campgrounds within public parks.

(3) Cemeteries, crematories, and mausoleums.

(4) Child day care facilities, when not operated as a home occupation, and as regulated in article X, division 2, of this chapter.

(5) Churches or places of religious worship, parish houses, rectories, and convents.

(6) Congregate housing.

(7) Golf courses, country clubs, and private recreational uses, all noncommercial.

(8) Government institutions, municipal buildings, museums, and libraries.

(9) Hospitals and medical clinics.

(10) Nursing homes and similar institutions.

(11) Other residential, institutional, or government service uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

(12) Parking lots providing required off-street parking for a use permitted in a residential zoning district, provided the parking lot is within 500 feet of the main building of the use.

(13) Public housing units, including multifamily dwelling units.

(14) Public utilities and essential service utility facilities and structures, as regulated in article X, division 2, of this chapter.

(Code 2015, § 10.15(3))

Sec. 10-167. Minimum lot area.

The minimum buildable lot area for the R-3 district is as follows:

(1) One-family: 6,000 square feet per unit.

(2) Two-family: 6,000 square feet.

(3) Multiple-family: 10,000 square feet for up to four dwelling units, plus an additional 1,500 square feet for each additional dwelling unit in excess of four units, not to exceed eight units in one building or on one lot.

(Code 2015, § 10.15(4); Ord. of 2-9-2004; Ord. of 12-9-2013)

Sec. 10-168. Minimum lot width.

The minimum lot width for a one-family dwelling unit is 50 feet and shall be measured at the front setback line. The minimum lot width for a two-family dwelling unit is 60 feet and shall be measured at the front setback line. The minimum lot width for all other uses in the R-3 Limited Multiple Dwelling District is 100 feet and shall be measured at the front setback line. Lots recorded prior to May 28, 1956, and utilized as a single-family or two-family dwelling may have a minimum lot width of 50 feet.
(Code 2015, § 10.15(5); Ord. of 12-9-2013)

Sec. 10-169. Yards and setbacks.

The minimum yard and setback requirements for the R-3 district are as follows:

(1) *Front yard setback.* All buildings: a minimum of 25 feet.

(2) *Side yard setback.*

a. One- and two-family dwellings: a minimum of six feet.

b. All other principal buildings and uses: ten percent of lot width, provided the side yard is a minimum of ten feet or a maximum of 30 feet.

c. Two side yards shall be required for each zoning lot.

(3) *Rear yard setback.*

a. One- and two-family dwellings: a minimum of 25 feet.

b. All other principal buildings and uses: 25 percent of lot depth, provided the yard is a minimum of 25 feet or a maximum of 75 feet.

(4) *Transitional yard.* Transitional yard: none required.

(5) *Accessory buildings.* Accessory buildings shall not be allowed in the required front or side yards. Accessory buildings may be located in the rear yard, provided the building is located at least three feet from any property line.

(6) *Parking.* Except for the property's driveway, all parking surfaces for one- and two-family dwellings shall be set back a minimum of three feet from any property line. Surfaces and all parking surfaces for all other uses shall be set back a minimum of six feet from any property line. Not more than 35 percent of the front, corner side yard, or rear yard setbacks shall be hard surfaced or used for driveways or unenclosed motor vehicle parking. Motor vehicle parking shall not be allowed in the required side yard setback.

(Code 2015, § 10.15(6); Ord. of 2-9-2004; Ord. of 12-9-2013)

Sec. 10-170. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on a zoning lot in the R-3 district shall not exceed 35 percent of the lot area. Accessory buildings shall occupy not more than 50 percent of the total area of a required rear yard.
(Code 2015, § 10.15(7); Ord. of 11-8-1999)

Sec. 10-171. Maximum floor area ratio.

There shall be no restriction to the maximum floor area ratio in the R-3 district.
(Code 2015, § 10.15(8))

Sec. 10-172. Maximum building height.

The maximum building height in the R-3 district is 35 feet. Accessory structures shall not exceed a height of 20 feet. Refer to article X, division 1, of this chapter for exemptions.
(Code 2015, § 10.15(9))

Sec. 10-173. Minimum structural requirements.

The following shall be minimum structural requirements in the R-3 district: All structures used for residential occupancy shall have a minimum width of 20 feet at the structure's narrowest dimension and the structure shall be affixed to a continuous permanent perimeter foundation constructed of concrete block, poured concrete, or wood. All structures, either principal or accessory, shall be constructed in conformance with the uniform building code.
(Code 2015, § 10.15(10))

Secs. 10-174—10-199. Reserved.

DIVISION 6. R-4 MULTIPLE-FAMILY DWELLING DISTRICT

Sec. 10-200. Purpose.

The R-4 district is intended to provide for high-density residential development.
(Code 2015, § 10.16(1))

Sec. 10-201. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the R-4 district:

(1) Dwellings, one-family (attached or detached), two-family, and multiple-family.

(2) Gardens, provided no retail sales.

(3) Home occupations, as regulated in article X, division 2, of this chapter.

(4) Parks, playgrounds, tennis courts, and swimming pools.

(5) Schools, public and private elementary, middle, and secondary.
(Code 2015, § 10.16(2))

Sec. 10-202. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the R-4 district, subject to the regulations for conditional uses set forth in article XI, division 3, of this chapter:

(1) Bed and breakfast residences, as regulated in article X, division 2, of this chapter.

(2) Campgrounds within public parks.

(3) Cemeteries, crematories, and mausoleums.

(4) Child day care facilities, when not operated as a home occupation, and as regulated in article X, division 2, of this chapter.

(5) Congregate housing.

(6) Fraternities and sororities.

(7) Golf and country clubs.

(8) Government institutions, municipal buildings, museums, and libraries.

(9) Grouped housing projects.

(10) Hospitals and medical clinics.

(11) Manufactured and manufactured home parks, as regulated in article IV, division 2, of this chapter.

(12) Nursing homes and similar institutions.

(13) Other residential, institutional, or government service uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to the existing uses and the general public health, safety and welfare.

(14) Parking lots providing off-street parking for a use permitted in a residential zoning district, provided the parking lot is within 500 feet of the main building of the use.

(15) Public housing units, including multiple-family dwelling units.

(16) Public utilities and essential service utility facilities and structures, as regulated in article X, division 2, of this chapter.

(17) Schools, public and private elementary, middle, and secondary.

(Code 2015, § 10.16(3))

Sec. 10-203. Minimum lot area.

The minimum lot area for the R-4 district is as follows:

(1) One-family: 6,000 square feet per unit.

(2) Two-family: 6,000 square feet.

(3) Multiple-family: 10,000 square feet for up to four dwelling units, plus an additional 2,000 square feet for each dwelling unit in excess of four units.

(Code 2015, § 10.16(4); Ord. of 2-9-2004)

Sec. 10-204. Minimum lot width.

The minimum lot width for a one-family dwelling unit is 50 feet and shall be measured at the front setback line. The minimum lot width for all other uses in the R-4 district is 60 feet, measured at the front setback line.
(Code 2015, § 10.16(5))

Sec. 10-205. Yards and setbacks.

The minimum yard and setback requirements for the R-4 district are as follows:

(1) *Front yard setback.* All buildings: a minimum of 25 feet.

(2) *Side yard setback.*

a. One- and two-family dwellings: a minimum of six feet.

b. Multiple-family dwellings and all other principal buildings and uses: ten percent of lot width, provided the side yard is a minimum of ten feet or a maximum of 30 feet.

c. In addition to the above side yard setback requirement, all principal structures exceeding 35 feet in height shall provide an increase in the side yard setback equal to one foot for each four feet of building height in excess of 35 feet.

d. Two side yards shall be required for each zoning lot.

(3) *Rear yard setback.*

a. One- and two-family dwellings: a minimum of 25 feet.

b. Multiple-family dwellings and all other principal buildings and uses: 25 percent of lot depth, provided the yard is a minimum of 25 feet or a maximum of 75 feet.

(4) *Transitional yard.* Transitional yard: none required.

(5) *Accessory buildings.* Accessory buildings shall not be allowed in the required front or side yards. Accessory buildings may be located in the rear yard, provided the building is located at least three feet from any property line.

(6) *Parking.* Except for the property's driveway, all parking surfaces shall be set back a minimum of three feet from any property line. Not more than 35 percent of the required front, corner side yard, or rear yard setbacks shall be hard surfaced or used for driveways or unenclosed motor vehicle parking. Motor vehicle parking shall not be allowed in the required side yard setback.
(Code 2015, § 10.16(6))

Sec. 10-206. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on a zoning lot in the R-4 district shall not exceed 35 percent. Accessory buildings shall occupy not more than 50 percent of the total area of a required rear yard.
(Code 2015, § 10.16(7))

Sec. 10-207. Maximum floor area ratio.

There shall be no restriction to the maximum floor area ratio in the R-4 district.
(Code 2015, § 10.16(8))

Sec. 10-208. Maximum building height.

The maximum building height in the R-4 district is 45 feet. Accessory structures shall not exceed a height of 20 feet. Refer to article X, division 1, of this chapter for exemptions.
(Code 2015, § 10.16(9))

Sec. 10-209. Minimum structural requirements.

The following shall be minimum structural requirements in the R-4 district: All structures used for residential occupancy shall have a minimum width of 20 feet at the structure's narrowest dimension and the structure shall be affixed to a continuous permanent perimeter foundation constructed of concrete block, poured concrete, or wood. All structures, either principal or accessory, shall be constructed in conformance with the uniform building code.
(Code 2015, § 10.16(10))

Secs. 10-210—10-226. Reserved.

DIVISION 7. R-T RESIDENTIAL TRANSITION DISTRICT

Sec. 10-227. Purpose.

The R-T district is intended to provide locations for limited residential development. It is intended to serve as an area of transition between residential development and commercial and industrial development and to provide for the orderly and efficient use of property. The R-T district is not intended to allow the development of residential uses on vacant property when such property is designated by the city land use plan as developing nonresidential uses.
(Code 2015, § 10.17(1))

Sec. 10-228. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the R-T district:

(1) Existing one-family dwellings.

(2) Existing two-family dwellings.
(Code 2015, § 10.17(2))

Sec. 10-229. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the R-T district subject to the regulations for conditional uses set forth in article XI, division 3, of this chapter: Public utilities and essential service utility facilities and structures, as regulated in article X, division 2, of this chapter.
(Code 2015, § 10.17(3))

Sec. 10-230. Minimum lot area.

The minimum lot area for the R-T district is as follows:

(1) One-family: 6,000 square feet.

(2) Two-family: 8,000 square feet.

(3) Prior recorded lots: Lots recorded prior to the effective date of the ordinance from which this chapter is derived may have a minimum area of 5,500 square feet.

(Code 2015, § 10.17(4))

Sec. 10-231. Minimum lot width.

The minimum lot width for the R-T district is 60 feet, measured at the front setback line. Lots recorded prior to the effective date of the ordinance from which this chapter is derived may have a minimum lot width of 50 feet.

(Code 2015, § 10.17(5))

Sec. 10-232. Yards and setbacks.

The minimum yard and setback requirements for the R-T district are as follows:

(1) *Front yard setback.* All buildings: a minimum of 30 feet.

(2) *Side yard setback.*

a. Dwellings: a minimum of six feet.

b. Two side yards shall be required for each zoning lot.

(3) *Rear yard setback.* Dwellings: a minimum of 25 feet.

(4) *Transitional yard.* Transitional yard: none required.

(5) *Accessory buildings.* Accessory buildings shall not be allowed in the required front or side yards. Accessory buildings may be located in the rear yard, provided the building is located at least three feet from any property line.

(6) *Parking.* Except for the property's driveway, all parking surfaces shall be set back a minimum of three feet from any property line. Not more than 35 percent of the required front, corner side yard, or rear yard setbacks shall be hard surfaced or used for driveways or unenclosed motor vehicle parking. Motor vehicle parking shall not be allowed in the required side yard setback.

(Code 2015, § 10.17(6))

Sec. 10-233. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on a zoning lot in the R-T district shall not exceed 30 percent. Accessory buildings shall occupy not more than 50 percent of the total area of a required rear yard.

(Code 2015, § 10.17(7))

Sec. 10-234. Maximum floor area ratio.

There shall be no restriction to the maximum floor area ratio in the R-T district.
(Code 2015, § 10.17(8))

Sec. 10-235. Maximum building height.

The maximum building height in the R-T district is 30 feet. Accessory structures shall not exceed a height of 20 feet. Refer to article X, division 1, of this chapter for exemptions.
(Code 2015, § 10.17(9))

Sec. 10-236. Minimum structural requirements.

The following shall be minimum structural requirements in the R-T district: All structures used for residential occupancy shall have a minimum width of 20 feet at the structure's narrowest dimension and the structure shall be affixed to a continuous permanent perimeter foundation constructed of concrete block, poured concrete, or wood. All structures, either principal or accessory, shall be constructed in conformance with the uniform building code.
(Code 2015, § 10.17(10))

Secs. 10-237—10-265. Reserved.

DIVISION 8. OR OFFICE-RESIDENTIAL DISTRICT

Sec. 10-266. Purpose.

The OR district is designed and intended to provide for medium-high-density development at strategic locations and encourage an optimum mix of office, institutional, and residential uses.
(Code 2015, § 10.18(1))

Sec. 10-267. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the OR district. Every use shall be operated in its entirety within a completely enclosed structure, including the storage of materials, products, and equipment.

(1) Child day care facilities, as regulated in article X, division 2, of this chapter. Playgrounds may be unenclosed.

(2) Churches or places of religious worship, parish houses, rectories, and convents.

(3) Clubs and lodges, not including the accessory sale of food or alcoholic beverages unless permitted by a conditional use permit.

(4) Community centers.

(5) Congregate housing.

(6) Dental and medical clinics and laboratories.

(7) Dwellings, one-, two-, and multiple-family.

(8) Fraternities and sororities.

(9) Libraries, museums, auditoriums, art galleries, or other cultural institutions.

(10) Music studios.

(11) Nursing homes.

(12) Parking lots (need not be enclosed).

(13) Parks, playgrounds, tennis courts, and swimming pools.

(14) Professional service offices.

(15) Rehabilitation centers for handicapped persons.

(16) Schools, public and private elementary, middle, and secondary.

(17) Universities and colleges, including residence halls and dormitories.

(Code 2015, § 10.18(2))

Sec. 10-268. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the OR district. Every use shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment.

(1) Bed and breakfast establishments as regulated in article X, division 2, of this chapter.

(2) Emergency shelters.

(3) Government institutions.

(4) Grouped housing projects.

(5) Other residential, institutional, or government service uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

(6) Public utilities and essential service utility facilities and structures, as regulated in article X, division 2, of this chapter.

(Code 2015, § 10.18(3))

Sec. 10-269. Minimum lot area.

The minimum lot area in the OR district is 10,000 square feet, plus an additional 600 square feet of lot area for each dwelling unit in excess of six units.

(Code 2015, § 10.18(4))

Sec. 10-270. Minimum lot frontage.

The minimum lot frontage in the OR district shall be not less than 80 feet.

(Code 2015, § 10.18(5))

Sec. 10-271. Yards and setbacks.

The minimum yard and setback requirements for the OR district are as follows:

(1) *Front yard setback.* All buildings: a minimum of 20 feet.

(2) *Side yard setback.*

a. All buildings: A minimum of five feet.

b. Two side yards shall be required for each zoning lot.

(3) *Rear yard setback.* All buildings: A minimum of ten feet.

(4) *Transitional yard.* A transitional yard shall be provided anywhere an OR district abuts a residential district. The transitional yard shall conform to the following requirements:

a. The dimensions of the required transitional yard on the property located in the OR district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.

b. The transitional yard shall extend the entire length of the abutting residential district boundary.

c. The transitional yard shall not be less than a yard required in the OR district.

d. The transitional yard shall not be required to be more than 20 feet in depth.

e. The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter.

f. Refer to section 10-276 for additional requirements.

(5) *Accessory buildings.* Accessory buildings shall not be allowed in the required front or side yards. Accessory buildings may be located in the rear yard, provided the building is located at least three feet from any property line.

(6) *Parking.* Except for the property's driveway, all parking surfaces shall be set back a minimum of three feet from any property line. Not more than 35 percent of the front, corner side yard, or rear yard setbacks shall be hard surfaced or used for driveways or unenclosed motor vehicle parking. Motor vehicle parking shall not be allowed in the required side yard setback.

(Code 2015, § 10.18(6); Ord. of 6-23-2003; Ord. of 2-9-2004)

Sec. 10-272. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on a zoning lot in the OR district shall not exceed 60 percent of the lot area. Accessory buildings shall occupy not more than 50 percent of the total area of a required rear yard.

(Code 2015, § 10.18(7))

Sec. 10-273. Maximum floor area ratio.

The maximum floor area ratio in the OR district shall not exceed 2.5.
(Code 2015, § 10.18(8))

Sec. 10-274. Maximum building height.

The maximum building height in the OR district is 45 feet. Accessory structures shall not exceed a height of 20 feet. Refer to article X, division 1, of this chapter for exemptions to these restrictions.
(Code 2015, § 10.18(9))

Sec. 10-275. Minimum structural requirements.

The following shall be minimum requirements in the OR district: All structures used for residential occupancy shall have a minimum width of 20 feet at the structure's narrowest dimension and the structure shall be affixed to a continuous permanent perimeter foundation constructed of concrete block, poured concrete, or wood. All structures, either principal or accessory, shall be constructed in conformance with the uniform building code.
(Code 2015, § 10.18(10))

Sec. 10-276. Transitional buffer.

A transitional buffer block of equal or lesser development density and similar height characteristics shall be provided where property in an office residential district abuts a subdivision containing residential uses that are located in an office residential or other residential district. The following shall apply to the regulation of a transitional buffer block:

(1) A transitional buffer block shall be required in all office residential subdivisions that are subdivided or resubdivided after June 1, 2003. Subdivisions or development plans that received council approval by resolution or by agreement prior to June 1, 2003, shall be regulated under the standards in effect at the time of subdivision or development approval, and uses within the subdivision shall not be considered nonconforming as defined and regulated by this article.

(2) A transitional buffer block shall not be required within a subdivision but shall be required where two subdivisions are adjacent or contiguous. The term "subdivision" is defined by article II, division 1, of this chapter. The term "adjacent" or "contiguous" is defined in section 10-2, but, for the purposes of this subsection, two subdivisions shall be considered adjacent or contiguous if separated by a public or private street.

(3) The term "block" is defined by section 10-2122. For the purposes of this subsection, the term "street" within the definition of the term "block" shall include private roadways that function as joint access to a residential development. Outlots that are located along the subdivision boundary shall be considered part of the block for the purposes of this subsection.

(4) A transitional buffer block shall be located along the entire subdivision boundary of the adjacent residential blocks. The transitional buffer block shall consist of uses or open spaces that conform to this subsection.

(5) Residential uses within the transitional buffer block shall be developed to an equal or lesser density as the adjacent residential block. In no case shall this provision reduce the density of the transitional buffer block below the net permitted density that is defined by the minimum lot area in the R-1 district.

(6) The number of dwelling units in each dwelling located in the transitional buffer block shall be equal to or less than the average number of dwelling units in the dwellings located in the abutting residential block.

(7) The area and dimension of the transitional buffer block shall be at least equal to the area and dimension of the adjacent residential block. In no case shall this provision require a transitional buffer block that would be greater in area or dimension than a residential block resulting from the application of the zoning standards in the R-1 district. The maximum depth of the transitional buffer block shall not be required to be greater than 130 feet as measured between the subdivision boundary and the block boundary.

(8) Environmentally sensitive areas, defined as slopes in excess of ten degrees for the purposes of this subsection, and public parks shall be considered conforming open spaces and may be considered a transitional buffer block if the slopes or parks are located along all or part of the subdivision boundary and are equal to or greater in area and dimensions as the abutting residential block as specified in subsection (7) of this section. The slope or park may be located in the abutting residential block or within the subdivision required to provide a transitional buffer block.

(9) Structures in the transitional buffer block shall be at an equal or lesser building height as found in the adjacent residential block. If the adjacent residential block is vacant, the maximum building height in the transitional buffer block shall be equal to or less than the heights or structures depicted on the approved plans submitted for the development of the adjacent residential block. If no such plans were submitted for the adjacent vacant residential block, the maximum permitted building height shall conform to section 10-274.

(10) Where nonresidential uses are proposed for the transitional buffer block, the uses shall be developed at a similar floor area ratio and building height as found in the abutting residential block. A transitional yard shall be provided per section 10-271, and parking areas screened in conformance with section 10-1740.

(Code 2015, § 10.18(11); Ord. of 6-23-2003)

Secs. 10-277—10-300. Reserved.

ARTICLE III. IO INSTITUTIONAL OVERLAY DISTRICT

DIVISION 1. GENERALLY

Secs. 10-301—10-318. Reserved.

DIVISION 2. USE REGULATIONS

Sec. 10-319. Purpose.

The purpose of the IO district is to provide an overlay district relating to medical services and higher education facilities and to promote cooperative planning among larger institutional uses, the city government, and neighboring property owners.
(Code 2015, § 10.21(1))

Sec. 10-320. Application.

Within any residential zoning district, the expansion or establishment of any medical service, higher education, or other institutional use which comprises, or will comprise, more than 50,000 square feet of cumulative building area shall only be allowed by the establishment of an institutional overlay district. Once established, the use of property within the district shall conform to this article and the approved development plan.
(Code 2015, § 10.21(2))

Sec. 10-321. Permitted uses.

Within the institutional overlay district, the following are permitted uses. Every use shall be operated in its entirety, within a completely enclosed structure, including the storage of all materials, products, and equipment.

(1) Antennas exceeding 50 feet in height.

(2) Chapels, seminaries, convents, and other religious uses.

(3) Dormitories for students of permitted colleges and universities.

(4) Dormitories for students of permitted medical education facilities.

(5) Fraternities and sororities.

(6) Helicopter landing pads.

(7) Hospitals.

(8) Medical education facilities.

(9) Medical clinics.

(10) Nursing homes.

(11) Outpatient lodging facilities.

(12) Universities and colleges.

(13) Other uses determined by the planning agency to be of the same general character as the permitted uses above and found not to be detrimental to the general public and welfare.

(Code 2015, § 10.21(3))

Sec. 10-322. Accessory uses.

The following uses may be permitted within the IO district, provided the use is subordinate to and serves a permitted use within the district. Every use shall be operated in its entirety, within a completely enclosed structure, including the storage of all materials, products, and equipment:

(1) Pharmacies, cafeterias, student centers, gift or floral services, and dispensaries of surgical supplies, provided that such uses are operated subordinate to the permitted use, are contained within the same building as the principal use, and such use is not advertised on the exterior.

(2) Accessory uses customarily incidental to uses permitted in section 10-321.

(3) Off-street parking as required by article X, division 5, of this chapter.

(Code 2015, § 10.21(4))

Sec. 10-323. Minimum lot area requirement.

All uses in the IO district shall be located on a lot having a minimum area of 22,000 square feet.

(Code 2015, § 10.21(5))

Sec. 10-324. Yards and setbacks.

The minimum yard and setback requirements for the institutional overlay district are as follows:

(1) *Front yard setback.*

a. All buildings: a minimum of 30 feet.

b. Surface parking: a minimum of ten feet.

(2) *Side yard setback.*

a. All buildings: a minimum of 30 feet.

b. Surface parking: a minimum of ten feet.

(3) *Rear yard setback.*

a. All buildings: a minimum of 30 feet.

b. Surface parking: a minimum of ten feet.

(Code 2015, § 10.21(6))

Sec. 10-325. Maximum ground coverage.

Sum total of the ground area covered by all impermeable surfaces (parking lots and buildings) shall not exceed 80 percent of the lot area.

(Code 2015, § 10.21(7))

Sec. 10-326. Maximum building height.

Maximum building height shall be 75 feet.

(Code 2015, § 10.21(8))

Sec. 10-327. Building design and construction.

All buildings and structures in the IO district shall meet the following building design and construction standards:

(1) *Exterior wall finish.* All exterior wall finishes on any building or structure shall be of the following materials, or a combination of the following materials:

a. Face brick.

b. Natural stone.

c. Precast concrete panels or units if the surfaces have been integrally treated with an applied decorative material or texture.

d. Other materials as approved by the planning agency.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building, and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

(Code 2015, § 10.21(9))

Sec. 10-328. Off-street parking and loading.

The number of required off-street parking stalls and loading spaces shall conform to article X, division 5, of this chapter.

(Code 2015, § 10.21(10))

Sec. 10-329. General requirements for overlay district designation.

(a) An IO district may be established by the city council after a development plan has received a recommendation from the planning commission. The district shall only be allowed in the OR and the O districts. The consideration of the rezoning to an OR or an O district, if necessary, and the establishment of an institutional overlay district shall follow the procedures outlined in article XI, divisions 4 and 9, of this chapter. A request for rezoning and the establishment of the district shall be reviewed concurrently.

(b) In addition to the plans and information required in article XI, division 4, of this chapter, the application for district designation shall include the following:

(1) Development plans for the entire proposed district, including the boundaries of the proposed district and the ownership of the land therein.

(2) The general location and approximate square footage of all existing and proposed future structures and uses intended. Applicable information, such as number of beds, number of tenant sleeping rooms, number of physicians, number of employees on a major shift, or seating capacities, shall also be indicated in order to determine required parking spaces and traffic circulation impacts.

(3) The location and capacity of all off-street parking spaces, including loading spaces.

(4) Internal property traffic circulation plans, including traffic ingress and egress locations.

(5) Traffic study detailing impact on surrounding streets.

(6) Drainage and utility information.

(7) Landscaping and exterior lighting plans.

(8) Concept plan for the development of other property in the vicinity of the district when the property is under the ownership of the applicant or is likely to be purchased by the applicant in the near future.

(Code 2015, § 10.21(11))

Secs. 10-330—10-346. Reserved.

ARTICLE IV. MANUFACTURED HOMES

DIVISION 1. GENERALLY

Secs. 10-347—10-366. Reserved.

DIVISION 2. MANUFACTURED HOME PARKS

Sec. 10-367. Permits.

It is unlawful for any person to construct, alter, or extend any manufactured home park or structures within the park that are permanent in nature within the limits of the city unless he or she holds a valid permit issued by the building inspector in the name of such person for the specific construction, alteration or extension proposed, where the term "permanent" means structures that are not on wheels or mobile.

(1) All applications for permits shall contain the following:

a. Name and address of the applicant.

b. Location and legal description of the manufactured home park.

c. Complete engineering plans and specifications of the proposed park showing, but not limited to, the following:

1. The area and dimensions of the tract of land; topography sketch of land.

2. The number, location and size of all manufactured home lots.

3. The location and width of roadways and walkways.

4. The location of water and sewer lines and riser pipes.

5. Plans and specifications of the water supply and refuse and sewage disposal facilities.

6. Plans and specifications of all buildings constructed or to be constructed within the manufactured home park.

7. The location and details of lighting and electrical system.

(2) All applications for a permit shall be accompanied by a fee, which shall be based on total valuation of the work to be done. Such fees shall be in accordance with established building permit fees required in the city, as provided in the city fee schedule.

(3) The planning commission may, at the request of the building inspector, review all applications for permits which have been forwarded to them by the building inspector under the provisions of this article, and shall be granted a hearing before the planning commission. The results of the planning commission findings shall be forwarded to the city council for their review and action.

(4) Any person whose application for permit under this article has been denied may request and shall be granted a hearing on this matter before the planning commission.

(Code 2015, § 10.31(1))

Sec. 10-368. Inspection of manufactured home park.

The building inspector is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this article. The building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this article, and he or she shall have the power to inspect the register containing a record of all residents of the manufactured home park. It shall be the duty of the park management to give the building inspector free access to all lots at reasonable times for the purpose of inspection. It shall be the duty of every occupant of a manufactured home park to give the owner thereof or his or her agent or employee access to any part of such manufactured home park at reasonable times for the purposes of making such repairs or alterations as are necessary to effect compliance with this article.

(Code 2015, § 10.31(3))

Sec. 10-369. Notices, hearings, and orders.

(a) *Notice.*

(1) Whenever the building inspector determines that there has been a violation of any provision of this article, the building inspector shall give notice of such alleged violation to the person to whom the permit was issued, as hereinafter provided. Such notice shall:

a. Be in writing.

b. Include a statement of the reasons for its issuance.

c. Allow 30 days for the performance of any act it required. If work cannot be completed in the 30-day period, extensions may be granted if reasons for hardship do prevail and can be verified.

(2) The notice shall be served upon the owner or his or her agent as the case may require, provided that such notice or order shall be deemed to have been properly served upon such

owner or agent when a copy thereof has been sent by registered mail to his or her last known address, or when he or she has been served with such notice by any method authorized or required by the laws of this state.

(b) *Hearing.* Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article may request and shall be granted a hearing of the same before the board of adjustments and appeals.

(c) *Orders.* Whenever the building inspector finds that an emergency exists which requires immediate action to protect the public health, he or she may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as he or she may deem necessary to meet the emergency, including the suspension of the permit. Notwithstanding any other provisions of this article, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the building inspector shall be afforded a hearing as soon as possible. The provisions shall be applicable to such hearing and the order issued thereafter.
(Code 2015, § 10.31(4))

Sec. 10-370. Environmental, open spaces, and access requirements.

(a) *General requirements.* Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health and safety of the occupants. The site should not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable or sudden flooding. These provisions shall not apply to existing manufactured home courts until 20 years after the effective date of the ordinance from which this chapter is derived.

(b) *Soil and ground cover requirements.* Exposed ground surfaces in all parts of every manufactured home park shall be paved, or covered with stone, screenings, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(c) *Site drainage requirements.* The ground surface in all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

(d) *Certain provisions.* No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. Nothing contained in this section shall be deemed as prohibiting the sale of a manufactured home located on a manufactured home stand and connected to the pertinent utilities. No such nonconforming use as provided in this section may be continued for more than five years after the effective date of the ordinance from which this chapter is derived.

(e) *Required separation between manufactured homes.*

(1) Manufactured homes shall be separated from each other and from other buildings and structures by at least 15 feet. Manufactured homes placed end-to-end must have a minimum clearance of ten feet.

(2) An accessory structure such as an awning, cabana, storage cabinet, carport, windbreak and porch which has a floor exceeding 25 feet and has an opaque top or roof shall, for the purposes of all separation requirements, be considered to be part of the manufactured home.

(3) Minimum lot sizes shall not be less than 4,000 square feet with a maximum lot coverage of 25 percent or less of the total lot area. Where minimum lot sizes are 5,000 square feet or more, lot coverage may be increased to a maximum of 30 percent of the total lot coverage.

(f) *Required recreation areas.* Provisions for park recreation areas shall come under this chapter.

(g) *Required setbacks, buffer strips, and screening.*

(1) All manufactured homes shall be located at least 25 feet from any property boundary line abutting upon a public street or highway and at least 15 feet from other property boundary lines.

(2) There shall be a minimum distance of ten feet between the manufactured home stand and abutting park street.

(3) All manufactured home parks located adjacent to recreational or commercial land uses shall provide screening such as fences or natural growth along the property boundary line separating the park and such adjacent nonresidential uses, and shall be maintained in a neat and orderly fashion.

(h) *Park street system and car parking.*

(1) *General requirements.* All manufactured home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each manufactured home lot. Such access shall be provided by streets, driveways, or other means.

(2) *Park entrance.* Entrances to manufactured home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. No parking shall be permitted on the park entrance street for a distance of 100 feet from its point of beginning.

(3) *Internal streets.* Surface roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:

a. All streets except minor streets shall be 20 feet in width from face of curb to face of curb. Streets without curb shall be considered minor streets.

b. Dead-end streets shall be limited in length to 500 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 60 feet. All dead-end streets shall be marked with approved signs at the entrance to the dead-end streets.

c. Minor streets may be 16 feet in width from face of curb to face of curb (acceptable only if less than 500 feet long and serving less than 25 manufactured homes or of any length if manufactured home lots abut on one side only).

(4) *Car parking.* Off-street parking areas or on-street parking lanes shall be provided for the use of park occupants and guests. Such areas shall:

a. Be furnished at a rate of at least two car spaces for each manufactured home lot.

b. Be located within a distance of 200 feet from the manufactured home to be served, unless other vehicular access is provided. The minimum street width requirement under subsection (h)(3) of this section shall be increased by eight feet if on-street parking is the only type of car parking provided in a manufactured home park.

(5) *Required illumination of park street system.* All parks shall be furnished with lighting units so spaced and equipped with luminaires placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

a. All parts of the park street system: 0.6 footcandle.

b. Potentially hazardous locations, such as major street intersections and steps or stepped ramps: individually illuminated, with a minimum of 0.6 footcandle.

(6) *Street construction and design standards.*

a. *Pavements.* All streets shall be provided with a paved concrete or bituminous surface. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Street surfaces shall be maintained, free of cracks, holes and other hazards.

b. *Grades.* Longitudinal grades of all streets shall range between 0.4 percent and 8.00 percent. Transverse grades (crown) of all streets shall be sufficient to ensure adequate transverse drainage. If conditions warrant, an adequate storm sewer system shall be provided to dispose of all runoff water. The storm sewer system may be connected to the existing city storm system upon city approval.

c. *Intersections.* Within 50 feet of an intersection, streets shall be at right angles. A distance of at least 85 feet shall be maintained between the centerlines of offset intersection streets. Intersections or more than two streets at one point shall be avoided.

(i) *Walks.*

(1) *General requirements.* All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual manufactured homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.

(2) *Common walk system.* A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of 4.5 feet.

(3) *Individual walks.* All manufactured homes shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two feet.

(Code 2015, § 10.31(5))

Sec. 10-371. Water supply.

An accessible, adequate, safe, and potable supply of water shall be provided in each manufactured home park. Where a public supply of water of satisfactory quantity, quality, and pressure is available at the site or at the boundary of the site, connection shall be made thereto and its supply used exclusively. When a satisfactory public water supply system is not available, a private water supply system may be developed and used as approved by the state until such time as a public supply system becomes available.

(Code 2015, § 10.31(6))

Sec. 10-372. Sewage disposal.

An adequate and safe sewerage system shall be provided in all manufactured home parks for conveying and disposing of all sewage. Such system shall be designed, constructed and maintained in accordance with state and local laws.

(Code 2015, § 10.31(7))

Sec. 10-373. Service buildings and other community service facilities.

(a) *Generally.* The requirements of this section shall apply to service buildings, recreation buildings, and other community service facilities, such as:

(1) Management offices, repair shops and storage areas.

(2) Sanitary facilities.

(3) Laundry facilities.

(4) Indoor recreation areas.

(5) Commercial uses supplying essential goods or services for the exclusive use of park occupants.

(b) *Structural requirements for buildings.* All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.

(c) *Barbecue pits, fireplaces, stoves, and incinerators.* Cooking shelters, barbecue pits, fireplaces, woodburning stoves and incinerators shall be so located, constructed, maintained, and used as to minimize fire hazards and smoke nuisances both the property on which used and on neighboring property. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

(Code 2015, § 10.31(8))

Sec. 10-374. Refuse handling.

The storage, collection and disposal of refuse in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding, accident or fire hazards, or air pollution.
(Code 2015, § 10.31(9))

Sec. 10-375. Insect and rodent control.

Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the city health code. Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored at least one foot above ground. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.
(Code 2015, § 10.31(10))

Sec. 10-376. Fuel supply and storage.

Natural gas piping systems, liquefied petroleum gas systems, and all fuel oil supply systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
(Code 2015, § 10.31(11))

Sec. 10-377. Fire protection.

Manufactured home parks shall be kept free of litter, rubbish, and other flammable material. Portable fire extinguishers rated for Classes A, B, and C fires shall be kept visible in service buildings and at other locations conveniently and readily accessible for use by all of the occupants and shall be maintained in good operating condition. Their capacity shall be not less than 2.5 gallons for Class A extinguishers and five pounds carbon dioxide or ten pounds dry powder for Class B and C extinguishers. Fires shall be made only in stoves, incinerators, and other equipment intended for such purposes. Fire hydrants shall be installed if the park water supply system is capable to serve them in accordance with the following requirements:

(1) The water supply system shall permit the operation of a minimum of 1.5-inch hose streams.

(2) Fire hydrants, if provided, shall be located within 500 feet of any manufactured home, service buildings or other structure in the park.

(Code 2015, § 10.31(12))

Sec. 10-378. Responsibilities of the park management.

The manufactured home park operator shall operate the park in compliance with this article and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition. The park management shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article.
(Code 2015, § 10.31(13))

Sec. 10-379. Existing nonconforming uses.

Any lawful nonconforming use of land existing at the date of enactment of the ordinance from which this chapter is derived may be continued, except that any nonconforming use or buildings may not be:

(1) Changed to another nonconforming use.

(2) Re-established after discontinuance for one year if it involves a substantial building; or after discontinuance for any period in other cases.

(3) Extended.

(4) Rebuilt after damage exceeding 50 percent of its assessed market value.
(Code 2015, § 10.31(14))

Secs. 10-380—10-401. Reserved.

ARTICLE V. COMMERCIAL DISTRICTS

DIVISION 1. GENERALLY

Secs. 10-402—10-430. Reserved.

DIVISION 2. GENERAL REQUIREMENTS

Sec. 10-431. Accessory uses and structures.

(a) Accessory uses and structures, including surface parking lots and parking structures or garages, are permitted in the commercial districts subject to the regulations of article X, divisions 1 and 5, of this chapter. Accessory enclosed and unenclosed parking for principal uses shall be permitted in all commercial districts.

(b) Accessory seasonal unenclosed uses. The unenclosed accessory sale and display of cut Christmas trees, wreaths, tree branches, pine cones, holly, and related plant items during the months of November and December, and the unenclosed sale and display of plants and garden supplies during the months of April, May, and June shall be permitted as an accessory use, provided that the sale and display is conducted in connection with the operation of an existing retail use in the

B-1, B-2, or B-3 zoning districts, and the area used for the unenclosed sale and display does not exceed 20 percent of the area of the parcel containing buildings or use more than 20 percent of the required parking area.
(Code 2015, § 10.41(1); Ord. of 7-10-2000)

Sec. 10-432. Compliance with applicable regulations.

Any use established in a commercial district after the effective date of the ordinance from which this chapter is derived shall be so operated as to comply with all applicable local, state, and federal standards for such uses, including, but not limited to, the control for noise, vibration, air pollution, fire and explosive hazards, toxic substances, water pollution and glare.
(Code 2015, § 10.41(2); Ord. of 7-10-2000)

Sec. 10-433. Off-street parking and loading.

(a) Off-street parking and loading facilities shall be provided for the commercial districts in accordance with the regulations set forth in article X, divisions 5 and 6, of this chapter.

(b) In the CBD-C, Central Business District-Core, there shall be no off-street parking requirement for permitted uses. In the CBD-F, Central Business District-Fringe, the off-street parking requirement for permitted uses shall be one-half of the parking requirements contained in article X, division 5, of this chapter. However, as part of the approval for a conditional use permit in the CBD-C and CBD-F, the city council may require off-street parking to be provided in partial or total conformance with the requirements of article X, division 5, of this chapter. In lieu of required parking spaces in the CBD-C and CBD-F, a payment may be made to the city parking fund or other authorized parking fund. The in-lieu payment per parking space shall be determined by the council on a yearly basis with the same procedure required for all assessments. Requests for payment in lieu of required parking spaces must be made to the council through the city planning commission. The determination to allow a payment in lieu of required parking will be made by the council and shall be based on available municipal parking facilities within 500 feet of the use and the total city parking system in general.
(Code 2015, § 10.41(3); Ord. of 7-10-2000)

Sec. 10-434. Landscaping and screening.

Landscaping and screening shall be provided for the commercial districts in accordance with the regulations set forth in article X, division 8, of this chapter.
(Code 2015, § 10.41(4); Ord. of 7-10-2000)

Sec. 10-435. Signs.

Signs in the commercial districts shall comply with the applicable sign regulations set forth in article X, division 7, of this chapter.
(Code 2015, § 10.41(5); Ord. of 7-10-2000)

Sec. 10-436. Performance standards.

Requirements relating to performance standards in the commercial districts are set forth in article X, division 9, of this chapter. All uses, either permitted or conditional, shall be operated in their entirety within a completely enclosed building. The unenclosed storage of materials, equipment, and products outside of completely enclosed buildings is prohibited unless explicitly allowed within the district standards and per article X, division 2, of this chapter.
(Code 2015, § 10.41(6); Ord. of 7-10-2000)

Sec. 10-437. Site plan review.

Applications for development approval for properties located in the commercial districts shall be subject to site plan review in accordance with the requirements of article X, division 10, of this chapter.
(Code 2015, § 10.41(7); Ord. of 7-10-2000)

Sec. 10-438. General provisions.

Refer to article X for additional standards and exceptions.
(Code 2015, § 10.41(8); Ord. of 7-10-2000)

Sec. 10-439. Planned unit development.

A planned unit development plan may be submitted for consideration by the city council for any property located in the commercial zoning districts. Refer to article XI, division 4, of this chapter for submittal requirements and development standards.
(Code 2015, § 10.41(9); Ord. of 7-10-2000)

Sec. 10-440. Urban design guidelines.

The following shall apply to development proposals and plans submitted after the adoption of the ordinance from which this chapter is derived:

(1) *New development.* Development plans for new development on vacant parcels shall be required to demonstrate conformance to the general design principles and recommendations or general site development guidelines of the Urban Design Framework Manual.

(2) *Existing development.* Development and structures that exist before the adoption of the ordinance from which this chapter is derived shall not be considered nonconforming under this subsection and shall be permitted to continue and expand in a manner consistent with existing conditions, designs, and approvals granted under this article.

(3) *Redevelopment.*

a. When the principal use of property changes and is accompanied by a change in the ground coverage of existing buildings or structures, development plans shall demonstrate conformance to the General Design Principles and Recommendations and General Site Development Guidelines of the Urban Design Framework Manual. The

site plan review committee or planning agency may grant or recommend variances from this subsection, as appropriate; when it is determined that practical hardships exist because of site conditions or the character of other structures in the vicinity.

b. Redevelopment plans that include demolition of the existing principal structure to an extent of 50 percent or more of the floor area shall be considered new development and shall be subject to subsection (1) of this section.

(Code 2015, § 10.41(10); Ord. of 7-10-2000)

Secs. 10-441—10-463. Reserved.

DIVISION 3. O-OFFICE DISTRICT

Sec. 10-464. Purpose.

The O district is established to provide for low-density office uses under exemplary standards that assist in making such developments compatible with adjacent high quality commercial and residential uses.

(Code 2015, § 10.42(1))

Sec. 10-465. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the O district. Every use shall be operated in its entirety, within a completely enclosed structure, including the storage of all materials, products, and equipment:

(1) Banks, savings and loans, and financial services.

(2) Dental, medical, optical clinics, and laboratories.

(3) Professional service offices of any type.

(Code 2015, § 10.42(2))

Sec. 10-466. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the O district. Every use shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

(1) Drive-in facilities, accessory to a principal use.

(2) Essential service utility structures and facilities, per article X, division 2, of this chapter.

(3) Surface parking lots and parking structures or garages, when not accessory to a permitted or conditional use.

(4) Other uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

(Code 2015, § 10.42(3))

Sec. 10-467. Minimum lot area.

The minimum lot area in the O district is 10,000 square feet.
(Code 2015, § 10.42(4))

Sec. 10-468. Minimum lot frontage.

The minimum lot frontage in the O district is 100 feet.
(Code 2015, § 10.42(5))

Sec. 10-469. Yards and setbacks.

The yard and setback requirements for the O district are as follows:

(1) *Front yard setback.* There shall be provided a 20-foot front yard setback to a parking surface or any portion of a building.

(2) *Side yard setback.* There shall be provided a five-foot side yard setback to a parking surface or any portion of a building; two side yards are required.

(3) *Rear yard setback.* There shall be provided a ten-foot rear yard setback to any portion of a building and a six-foot setback to a parking surface.

(4) *Transitional yard.* A transitional yard shall be provided anywhere an O district abuts a residential district. The yard shall conform to the following requirements:

a. The dimensions of the required transitional yard on the property located in the O district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.

b. The transitional yard shall extend the entire length of the abutting residential district boundary.

c. The transitional yard shall not be less than a yard required in the O district.

d. The transitional yard shall not be required to be more than 20 feet in depth.

e. The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter.

(Code 2015, § 10.42(6))

Sec. 10-470. Maximum lot coverage.

The maximum lot coverage on a lot in the O district is 60 percent of the lot area.
(Code 2015, § 10.42(7))

Sec. 10-471. Building design and construction.

All buildings and structures in the O district shall meet the following building design and construction standards:

(1) *Exterior wall finish.* All exterior wall finishes on any building or structure shall be of the following materials, or a combination of the following materials:

a. Face brick.

b. Natural stone.

c. Precast concrete panels or units if the surfaces have been integrally treated with an applied decorative material or texture.

d. Other materials as approved by the planning agency.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building, and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

(Code 2015, § 10.42(8))

Sec. 10-472. Maximum building height.

The maximum building height in the O-Office District is 25 feet.

(Code 2015, § 10.42(9))

Secs. 10-473—10-497. Reserved.

DIVISION 4. CBD-C CENTRAL BUSINESS DISTRICT-CORE

Sec. 10-498. Purpose.

The CBD-C district is designed and intended to provide locations in the downtown core area of the city for high-density shopping and business developments on compact sites, stressing pedestrian orientation and access.

(Code 2015, § 10.43(1))

Sec. 10-499. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the CBD-C district. Every use shall be operated in its entirety, within a completely enclosed structure, including the storage of all materials, products, and equipment.

(1) Antique shops.

(2) Apparel stores.

(3) Appliance stores.

(4) Art galleries, including commercial display and sales.

(5) Art schools and studios.

(6) Art supply stores.

(7) Banks and savings and loans, including drive-ins.

(8) Barber and beauty shops.

(9) Blueprinting and photostating.

(10) Book stores, not including the accessory sale, rental, or exhibition of movies or video tapes, or any other exhibition, either live or recorded.

(11) Business machine stores.

(12) Camera and photographic supplies.

(13) Candy, ice cream, and confectionery stores.

(14) Catalog and mail order houses.

(15) Caterers.

(16) Churches or places of religious worship.

(17) Dance studios.

(18) Dental and medical clinics and laboratories.

(19) Department and variety stores.

(20) Drug stores.

(21) Floral sales.

(22) Furniture and home furnishings stores.

(23) Gifts, novelties, and souvenir stores.

(24) Grocery stores.

(25) Hardware stores.

(26) Health equipment and sporting goods stores.

(27) Hobby shops.

(28) Interior decorators.

(29) Jewelry stores.

(30) Liquor stores (off-sale).

(31) Locksmiths.

(32) Luggage stores.

(33) Music stores, including accessories and studios.

(34) Newsstands and newspaper printing.

(35) Optical goods.

(36) Opticians.

(37) Painting and wallpaper stores.

(38) Photo studio and picture processing.

(39) Professional service offices.

(40) Radio and television broadcasting, excluding transmitters.

(41) Retail bakeries.

(42) Shoe repair shops.

(43) Stationery stores.

(44) Tailor and dressmaking shops.

(45) Telephone exchanges.

(46) Theaters, excluding drive-ins.

(47) Theatrical studios.

(48) Toy stores.

(Code 2015, § 10.43(2))

Sec. 10-500. Conditional uses.

Except as specifically limited herein, the following uses may be permitted in the CBD-C district. Conditions of approval for conditional uses may include requirements to provide off-street parking facilities in partial or total conformance with article X, division 5, of this chapter. Every use shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

(1) Apartments, only when located above the ground floor.

(2) Convention and civic centers.

(3) Drive-in facilities, accessory to a principal use, unless already specifically permitted above.

(4) Essential service utility structures and facilities, per article X, division 2, of this chapter.

(5) Government institutions.

(6) Hotels and motels.

(7) Shopping malls.

(8) Surface parking lots and parking structures or garages, when not accessory to a permitted use.

(9) Restaurants, including drive-through and carry-out, bars, and other eating and nonalcoholic drinking establishments, including unenclosed seating and servicing areas as regulated in article X, division 2, of this chapter.

(10) Schools, public and private elementary, middle, secondary, and post-secondary.

(11) Other commercial and residential uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

(Code 2015, § 10.43(3); Ord. of 3-27-2006)

Sec. 10-501. Minimum lot area.

The minimum lot area in the CBD-C district is 6,000 square feet.
(Code 2015, § 10.43(4))

Sec. 10-502. Minimum lot frontage.

The minimum lot frontage in the CBD-C district is 44 feet.
(Code 2015, § 10.43(5))

Sec. 10-503. Yards and setbacks.

(a) *None required.* Structures may encroach into the required sight triangle as defined by section 5-20(b), provided the structure location does not unduly restrict vehicular or pedestrian sight distances.

(b) *Transitional yard.* A transitional yard shall be provided anywhere a CBD-C district abuts a residential district. The yard shall conform to the following requirements:

(1) The dimensions of the required transitional yard on the property located in the CBD-C district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.

(2) The transitional yard shall extend the entire length of the abutting residential district boundary.

(3) The transitional yard shall not be required to be more than ten feet in depth.

(4) The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter.

(Code 2015, § 10.43(6))

Sec. 10-504. Maximum ground coverage.

There is no restriction on maximum ground coverage in the CBD-C district.
(Code 2015, § 10.43(7))

Sec. 10-505. Maximum floor area ratio.

The maximum floor area ratio in the CBD-C district is 4.0.
(Code 2015, § 10.43(8))

Sec. 10-506. Floor area bonus incentives.

In order to encourage and attract facilities and amenities which are of public benefit and deemed desirable by the planning agency and the city council, floor area bonus incentives shall be available to all developments within the CBD-C district. The bonus incentives provide for an incremental increase in the floor area ratio of a development in exchange for the inclusion of one or more of the public benefit features listed below. The granting of the bonus incentives shall be determined by the

city council, upon the recommendation of the planning agency, provided that each shall first make written findings of fact regarding whether the inclusion of the public benefit has sufficient merit to justify the granting of floor area bonus incentives.

(1) *Public benefits and corresponding bonus incentives.* The following benefits and corresponding bonus incentives are available in the CBD-C district:

a. Canopy up to 0.50.

b. Consolidated freight loading up to 1.50.

c. Elevated pedestrian walkways up to 1.00.

d. Interior arcade up to 0.50.

e. Passenger loading up to 0.75.

f. Plaza or open space up to 1.50.

g. Street arcade up to 0.75.

h. Street level landscaped public space up to 1.00.

i. Theaters or public art up to 1.00.

(2) *Standards for granting the bonus incentives.* In reviewing the bonus incentive proposals, the city council and planning agency shall consider the degree to which the following standards are met by the proposed public benefit features within the overall context of the principal use in which it is offered:

a. The size or capacity of the facility, feature, or provision.

b. The degree to which the location of the facility or feature within the structure, or on the site of which it is part, enhances the environment of the zoning district or the street frontage where it is located.

c. The degree to which the facility or feature enhances economic viability of the zoning district and the city as a whole.

d. The degree of public accessibility to the facility or feature and the specific nature of the facility or feature.

e. The quality of design of the facility or feature.

f. The degree to which the facility or feature enhances and protects the environment of the zoning district and the city as a whole.

g. The degree to which the facility or feature provides for and protects the public health, welfare, and safety of the residents, employees, and the visitors to the city.

(Code 2015, § 10.43(9))

Sec. 10-507. Maximum building height.

No restriction to maximum building height is required in the CBD-C district.

(Code 2015, § 10.43(10))

Sec. 10-508. Downtown design district.

Refer to article VI, division 2, of this chapter.
(Code 2015, § 10.43(11))

Secs. 10-509—10-539. Reserved.

DIVISION 5. CBD-F CENTRAL BUSINESS DISTRICT-FRINGE

Sec. 10-540. Purpose.

The CBD-F district is designed and intended to provide for high-density shopping, business, and business service developments. The district is intended to strengthen and expand the central business district core area by providing for uses not normally found in the CBD-C district.
(Code 2015, § 10.44(1))

Sec. 10-541. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the CBD-F district. Every use shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment.

(1) Uses listed as permitted uses in the CBD-C district.

(2) Bicycle stores.

(3) Bowling alleys and billiard parlors.

(4) Bus, rail, and airline depots, including ticket offices.

(5) Catalog and mail order services.

(6) Clubs and lodges, not including the accessory sale of food or alcoholic beverages unless permitted by a conditional use permit.

(7) Dairy product stores.

(8) Dance halls, not including the accessory sale of food or alcoholic beverages unless permitted by a conditional use permit.

(9) Dry-cleaning, laundromats, and diaper services.

(10) Funeral homes.

(11) Gunsmiths.

(12) Health clubs or gyms.

(13) Janitorial services.

(14) Laundries, self-service.

(15) Linen supply.

(16) Medical appliance sales and fittings.

(17) Motorcycles sales.

(18) Museums.

(19) Pet stores.

(20) Printing, publishing, and allied industries.

(21) Scientific and testing laboratories.

(22) Second-hand stores and pawn shops.

(23) Taxidermists.

(24) Upholstery shops.

(Code 2015, § 10.44(2))

Sec. 10-542. Conditional uses.

Except as specifically limited herein, the following uses may be permitted in the CBD-F district. Conditions of approval for conditional uses may include requirements to provide additional off-street parking facilities in excess of the parking standard for the CBD-F district. Every use shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment.

(1) Apartments, provided residential uses are limited to not more than 50 percent of the ground floor. The entirety of the upper floors may be used for residential purposes. At least 50 percent of the ground floor, including the portion of the building abutting the street frontage, common area, or plaza, shall be devoted to principal nonresidential uses permitted in this district.

(2) Auto service stations, as regulated in article X, division 2, of this chapter.

(3) Convenience stores.

(4) Convention and civic centers.

(5) Drive-in facilities, accessory to a principal use, unless specifically permitted above.

(6) Essential service utility structures and facilities, per article X, division 2, of this chapter.

(7) Government institutions.

(8) Shopping malls.

(9) Surface parking lots and parking structures or garages, when not accessory to a permitted use.

(10) Restaurants, including drive-through and carry-out, and other eating and nonalcoholic drinking establishments, including unenclosed seating and servicing areas as regulated in article X, division 2, of this chapter.

(11) Schools, public and private elementary, middle, secondary, and post-secondary.

(12) Other commercial and residential uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

(Code 2015, § 10.44(3); Ord. of 3-27-2006)

Sec. 10-543. Minimum lot area.

The minimum lot area in the CBD-F, Central Business District-Fringe, is 6,000 square feet, exclusive of any land held under air rights provisions.

(Code 2015, § 10.44(4))

Sec. 10-544. Minimum lot frontage.

The minimum lot frontage in the CBD-F, Central Business District-Fringe, is 44 feet.

(Code 2015, § 10.44(5))

Sec. 10-545. Yards and setbacks.

(a) *None required.* Structures may encroach into the required sight triangle as defined by section 5-20(b), provided the building location does not restrict vehicular or pedestrian line of sight disturbances.

(b) *Transitional yard.* A transitional yard shall be provided anywhere a CBD-F, Central Business District-Fringe, abuts a residential district. The yard shall conform to the following requirements:

(1) The dimensions of the required transitional yard on the property located in the CBD-F district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.

(2) The transitional yard shall extend the entire length of the abutting residential district boundary.

(3) The transitional yard shall not be required to be more than ten feet in depth.

(4) The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter.

(Code 2015, § 10.44(6))

Sec. 10-546. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on the zoning lot in the CBD-F district shall not exceed 75 percent of the lot area.

(Code 2015, § 10.44(7))

Sec. 10-547. Maximum floor area ratio.

The maximum floor area ratio in the CBD-F district is 3.0.

(Code 2015, § 10.44(8))

Sec. 10-548. Floor area bonus incentives.

In order to encourage and attract facilities and amenities which are of public benefit and deemed desirable by the planning agency and the city council, floor area bonus incentives shall be available to all developments within the CBD-F district. The bonus incentives provide for an incremental increase in the floor area ratio of a development in exchange for the inclusion of one or more of the public benefit features listed below. The granting of the bonus incentives shall be determined by the city council, upon the recommendation of the planning agency, provided that each shall first make written findings of fact regarding whether the inclusion of the public benefit has sufficient merit to justify the granting floor area bonus incentives.

(1) *Public benefits and corresponding bonus incentives.* The following benefits and corresponding bonus incentives are available in the CBD-F district:

a. Canopy up to 0.50.

b. Consolidated freight loading up to 1.50.

c. Elevated pedestrian walkways up to 1.00.

d. Interior arcade up to 0.50.

e. Passenger loading up to 0.75.

f. Plaza or open space up to 1.50.

g. Street arcade up to 0.75.

h. Street level landscaped public space up to 1.00.

i. Theaters or public art up to 1.00.

(2) *Standards for granting the bonus incentives.* In reviewing the bonus incentive proposals, the city council and the planning agency shall consider the degree to which the following standards are met by the proposed public benefit features within the overall context of the principal use in which it is offered:

a. The size or capacity of the facility, feature, or provision.

b. The degree to which the location of the facility or feature within the structure, or on the site of which it is part, enhances the environment of the zoning district or the street frontage where it is located.

c. The degree to which the facility or feature enhances economic viability of the zoning district and the city as a whole.

d. The degree of public accessibility to the facility or feature and the specific nature of the facility or feature.

e. The quality of design of the facility or feature.

f. The degree to which the facility or feature enhances and protects the environment of the zoning district and the city as a whole.

g. The degree to which the facility or feature provides for and protects the public health, welfare, and safety of the residents, employees, and the visitors to the city.

(Code 2015, § 10.44(9))

Sec. 10-549. Maximum building height.

There shall be no restriction to the maximum building height in the B-1 district.

(Code 2015, § 10.44(10))

Sec. 10-550. Downtown design district.

Refer to article VI, division 2, of this chapter.

(Code 2015, § 10.44(11))

Secs. 10-551—10-578. Reserved.

DIVISION 6. B-1 COMMUNITY BUSINESS DISTRICTS

Sec. 10-579. Purpose.

The B-1 district is designed to provide for a broad range of retail developments which are adjacent to residential areas. The district will also accommodate office and institutional uses as well as limited light industry.

(Code 2015, § 10.45(1))

Sec. 10-580. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the B-1 district. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

(1) Antique shops.

(2) Apparel stores.

(3) Appliance stores and home electronics stores.

(4) Art galleries, including commercial display and sales.

(5) Art schools and studios.

(6) Art supply stores.

(7) Auction rooms.

(8) Automobile parts stores, not including accessory repair or servicing of motor vehicles or trailers.

(9) Bakeries.

(10) Banks and savings and loans.

(11) Barber and beauty shops.

(12) Book stores.

(13) Bicycle stores.

(14) Blueprinting and photostating.

(15) Business machine stores.

(16) Camera and photographic supplies.

(17) Candy, ice cream, and confectionery stores.

(18) Caterers.

(19) Churches and other religious institutions.

(20) Dental, medical, and scientific clinics and laboratories.

(21) Department, discount, and variety stores.

(22) Dressmakers, seamstresses, and tailors.

(23) Drive-in facilities, accessory to a principal use.

(24) Drug stores.

(25) Dry-cleaning, laundromats, and diaper services.

(26) Essential service utility structures and facilities, per article X, division 2, of this chapter.

(27) Floral sales.

(28) Funeral homes.

(29) Furniture stores.

(30) Garden supply stores and landscape nurseries. Outside display and storage of merchandise is permitted per the restrictions of article X, division 2, of this chapter.

(31) Gift and souvenir stores.

(32) Grocery stores.

(33) Gunsmiths.

(34) Hardware stores.

(35) Health clubs.

(36) Health equipment and sporting goods stores.

(37) Hobby stores.

(38) Interior decorators.

(39) Jewelry stores.

(40) Laundry, self-service.

(41) Liquor stores (off-sale).

(42) Locksmiths.

(43) Medical appliance sales and fittings.

(44) Music stores, including the sale of instruments and recorded music.

(45) Optical goods.

(46) Paint and wallpaper stores.

(47) Parks and playgrounds.

(48) Photo studios and picture processing and equipment sales.

(49) Professional service offices.

(50) Repair, rental, and service shops, provided the sale of the articles repaired, rented, or serviced shall be permitted in the district.

(51) Schools, public and private elementary, middle, secondary, and post-secondary.

(52) Shoe stores.

(53) Stationery and greeting card stores.

(54) Ticket agencies and travel bureaus.

(55) Toy stores.

(56) Veterinarians, including observation kennels for domestic pets, provided that all such kennels are within completely enclosed structures.

(57) Video rentals and sales.

(Code 2015, § 10.45(2))

Sec. 10-581. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the B-1, Community Business District. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment.

(1) Any use that exceeds 10,000 square feet of gross floor area.

(2) Apartments or dwelling units, when located above the ground floor.

(3) Automobile repair garage, including automobile glass, muffler, tire, and electronics installation.

(4) Automobile sales (new and used), including accessory automobile servicing. Outside display of automobiles is permitted.

(5) Automobile service stations and car washes, as regulated in article X, division 2, of this chapter.

(6) Bowling alleys.

(7) Catalog and mail order houses.

(8) Child day care facilities, as regulated in article X, division 2, of this chapter.

(9) Clubs and lodges.

(10) Collection of recyclable materials at temporary locations, subject to the special requirements set forth in article X, division 2, of this chapter.

(11) Community centers.

(12) Convenience stores.

(13) Government institutions.

(14) Hotels and motels.

(15) Light manufacturing and assembly, subject to the special requirements set forth below.

(16) Shopping malls.

(17) Restaurants, including drive-through and carry-out, and other eating and nonalcoholic drinking establishments, as regulated in article X, division 2, of this chapter.

(18) Shipping and storage when accessory to a permitted or conditional use. Outside storage may be allowed per the restrictions of article X, division 2, of this chapter.

(19) Surface parking lots and parking structures or garages, when not accessory to a permitted use.

(20) Theaters, excluding drive-ins.

(21) Other commercial and residential uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

(Code 2015, § 10.45(3); Ord. of 3-27-2006)

Sec. 10-582. Special requirements for light manufacturing and assembly.

The following special requirements shall apply to light manufacturing and assembly conducted in the B-1 district:

(1) Outside storage conforming to article X, division 2, of this chapter may be allowed by a conditional use permit.

(2) Notwithstanding the yard and setback requirements of this section, light manufacturing and assembly conducted in this district shall be subject to the yard requirements of the PI district, article VII, division 2, of this chapter.

(Code 2015, § 10.45(4))

Sec. 10-583. Minimum lot area.

The minimum lot area in the B-1 district is 7,000 square feet.

(Code 2015, § 10.45(5))

Sec. 10-584. Yards and setbacks.

The yard and setback requirements for the B-1 district are as follows:

(1) *Front yard setback.* There shall be provided a 15-foot front yard setback to an impervious parking or storage surface or any portion of a building.

(2) *Side yard setback.* There shall be provided a three-foot side yard setback to an impervious parking or storage surface and a six-foot setback to any portion of a building. Two side yards are required.

(3) *Rear yard setback.* There shall be provided a three-foot rear yard setback to an impervious parking or storage surface and six feet to any portion of a building.

(4) *Transitional yard.* A transitional yard shall be provided anywhere a B-1 district abuts a residential district. The yard shall conform to the following requirements:

a. The dimensions of the required transitional yard on the property located in the B-1 district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.

b. The transitional yard shall extend the entire length of the abutting residential district boundary.

c. The transitional yard shall not be less than a yard required in the B-1 district.

d. The transitional yard shall not be required to be more than 20 feet in depth.

e. The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter.

(Code 2015, § 10.45(6))

Sec. 10-585. Minimum street frontage.

The minimum street frontage in the B-1 district shall be 100 feet.
(Code 2015, § 10.45(7))

Sec. 10-586. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on the zoning lot in the B-1 district shall not exceed 50 percent of the lot area.
(Code 2015, § 10.45(8))

Sec. 10-587. Maximum floor area ratio.

The maximum floor area ratio in the B-1 district is 1.5.
(Code 2015, § 10.45(9))

Sec. 10-588. Building design and construction.

All buildings and structures in the B-1 district shall meet the following building design and construction standards:

(1) *Exterior wall finish.* All exterior wall finishes on any building or structure shall be of the following materials, or a combination of the following materials:

a. Face brick.

b. Factory fabricated and finished metal framed panel construction, glass, prefinished metal (except for unpainted galvanized iron), or plastic.

c. Natural stone.

d. Precast concrete panels or units if the surfaces have been integrally treated with an applied decorative material or texture.

e. Other materials as approved by the planning agency.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

(Code 2015, § 10.45(10))

Sec. 10-589. Maximum building height.

The height of a building in the B-1 district shall not exceed 35 feet.

(Code 2015, § 10.45(11))

Secs. 10-590—10-611. Reserved.

DIVISION 7. B-2 GENERAL BUSINESS DISTRICT

Sec. 10-612. Purpose.

The B-2 district is designed and intended to provide for a broad range of commercial and light industrial developments.

(Code 2015, § 10.46(1))

Sec. 10-613. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the B-2 district. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

(1) Antique shops.

(2) Adult uses, per the restrictions of article X, division 3, of this chapter.

(3) Ambulance services.

(4) Apparel shops.

(5) Appliance stores and home electronics stores.

(6) Art supply stores.

(7) Auction houses.

(8) Automobile glass, muffler, and upholstery services.

(9) Automobile parts and accessory sales, including outside display of automobile accessories, provided that such outside display conforms to the restrictions of article X, division 2, of this chapter.

(10) Automobile repair garage, including automobile glass, muffler, tire, and electronics installation.

(11) Automobile sales (new and used) and automobile storage. Outside display and storage of operable automobiles is permitted.

(12) Bakeries.

(13) Banks and savings and loans, including drive-in facilities.

(14) Barbershops.

(15) Bicycle stores.

(16) Blueprinting and photostating.

(17) Boat sales and service, not including wrecking or dismantling.

(18) Bowling alleys and billiard parlors, not including the accessory sale of food or alcoholic beverages unless permitted by a conditional use permit.

(19) Business machine stores.

(20) Bus, rail, and airline depots, including ticket offices.

(21) Camera and photographic supplies.

(22) Candy, ice cream, and confectionery store.

(23) Catalog and mail order services.

(24) Caterers.

(25) Clubs and lodges, not including the accessory sale of food or alcoholic beverages, unless permitted by a conditional use permit.

(26) Contractors:

a. Electric.

b. General.

c. Painting and decorating.

d. Plumbing.

e. Sign.

(27) Dance halls, not including the accessory sale of food or alcoholic beverages unless permitted by a conditional use permit.

(28) Dental, medical, and scientific clinics and laboratories.

(29) Department, discount, and variety stores.

(30) Drug stores.

(31) Drive-in facilities per the regulation contained in article X, division 2, of this chapter.

(32) Dry cleaning, laundromats, and diaper services.

(33) Equipment rental and outdoor storage of equipment and materials is allowed, provided that such outside storage conforms to the restrictions of article X, division 2, of this chapter.

(34) Essential service utility structures and facilities, per article X, division 2, of this chapter.

(35) Exterminators.

(36) Food locker plants, including sales and home delivery, cutting, and packaging of meats and game, but not including slaughtering or eviscerating activities. (Lockers shall be provided for individual home rental and storage only.)

(37) Funeral homes.

(38) Furniture stores.

(39) Garden supply stores.

(40) Gunsmiths.

(41) Hardware stores.

(42) Health equipment and sporting goods store.

(43) Hobby shops.

(44) Hotels and motels.

(45) Interior decorators.

(46) Janitorial services.

(47) Laundries, self-service.

(48) Liquor stores (off-sale).

(49) Locksmith.

(50) Medical appliance sales and fittings.

(51) Meeting halls, not including the accessory sale of food or alcoholic beverages unless permitted by a conditional use permit.

(52) Motorcycle sales.

(53) Music stores, including the sale of instruments and recorded music.

(54) Optical goods.

(55) Outside storage of equipment and materials, when accessory to a permitted use and, provided that such outside storage conforms to the restrictions of article X, division 2, of this chapter.

(56) Paint stores.

(57) Photo studios and picture processing.

(58) Professional service offices.

(59) Printing, publishing, and allied industries.

(60) Radio and television broadcasting, including transmitters, and studios.

(61) Repair, rental, and service shops, provided the sale of the articles repaired, rented, or serviced shall be permitted in this district.

(62) Secondhand stores.

(63) Shoe stores.

(64) Surface parking lots and parking structures or garages.

(65) Taxidermists.

(66) Theaters, excluding drive-ins.

(67) Upholstery shops.

(68) Veterinarians, including boarding kennels for domestic pets, provided that all such kennels are within completely enclosed structures.

(69) Video rentals and sales.

(Code 2015, § 10.46(2))

Sec. 10-614. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the B-2 district. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment.

(1) Any use that exceeds 20,000 square feet of gross floor area.

(2) Automobile service stations and car washes, as regulated in article X, division 2, of this chapter.

(3) Collection of recyclable materials at temporary locations, subject to the special requirements set forth in article X, division 2, of this chapter.

(4) Convenience stores.

(5) Community convention centers.

(6) Government institutions.

(7) Landing strips, including aircraft maintenance, storage, repair, and fueling.

(8) Light manufacturing and assembly, subject to the special requirements set forth below.

(9) Manufactured home, manufactured home, and trailer sales.

(10) Shipping and outside storage of equipment and materials, when not accessory to a permitted use, provided that such outside storage conforms to the restrictions of article X, division 2, of this chapter.

(11) Shopping malls.

(12) Restaurants, including drive-through and carry-out and other eating and nonalcoholic drinking establishments, as regulated in article X, division 2, of this chapter. Bars and accessory unenclosed seating and servicing areas, as regulated in article X, division 2, of this chapter, and provided the bar is located 300 feet from a residential zoning district.

(13) Self-service storage facilities.

(14) Other commercial uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and to the general public health, safety, and welfare.

(15) Indoor firing ranges, per the restrictions of article X, division 2, of this chapter.

(Code 2015, § 10.46(3); Ord. of 10-13-1997; Ord. of 3-27-2006; Ord. of 3-23-2009)

Sec. 10-615. Special requirements for light manufacturing and assembly.

The following special requirements shall apply to light manufacturing and assembly conducted in the B-2 district:

(1) Outside storage, conforming to article X, division 2, of this chapter may be allowed by a conditional use permit.

(2) Notwithstanding the yard requirements of this section, light manufacturing and assembly conducted in this district shall be subject to the yard requirements of the PI district, article VII, division 2, of this chapter.

(Code 2015, § 10.46(4))

Sec. 10-616. Minimum lot size.

The minimum lot size in the B-2 district is 10,000 square feet.

(Code 2015, § 10.46(5))

Sec. 10-617. Minimum street frontage.

The minimum street frontage in the B-2 district shall be 100 feet.

(Code 2015, § 10.46(6))

Sec. 10-618. Yards and setbacks.

The yard and setback requirements for the B-2 district are as follows:

(1) *Front yard setback.* There shall be provided a 15-foot front yard setback to an impervious parking or storage surface and any portion of a building.

(2) *Side yard setback.* There shall be provided a three-foot side yard setback to an impervious parking or storage surface and a six-foot setback to any portion of a building.

(3) *Rear yard setback.* There shall be provided a three-foot rear yard setback to an impervious parking or storage surface and six feet to any portion of a building.

(4) *Transitional yard.* A transitional yard shall be provided anywhere a B-2 district abuts a residential district. The yard shall conform to the following requirements:

a. The dimensions of the required transitional yard on the property located in the B-2 district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.

b. The transitional yard shall extend the entire length of the abutting residential district boundary.

c. The transitional yard shall not be less than a yard required in the B-2 district.

d. The transitional yard shall not be required to be more than 20 feet in depth.

e. The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter.

(Code 2015, § 10.46(7))

Sec. 10-619. Maximum ground coverage.

The sum total of the ground area that may be covered by all structures located on the zoning lot in the B-2 district shall not exceed 75 percent of the lot area.
(Code 2015, § 10.46(8))

Sec. 10-620. Maximum floor area ratio.

The maximum floor area ratio in the B-2 district shall be 1.0.
(Code 2015, § 10.46(9))

Sec. 10-621. Building design and construction.

All buildings and structures in the B-2 district shall meet the following building, design, and construction standards:

(1) *Exterior wall finish.* All exterior wall finishes on any building or structure shall be of the following materials, or a combination of the following materials:

a. Face brick.

b. Factory fabricated and finished metal framed panel construction, glass, prefinished metal (except for unpainted galvanized iron), or plastic.

c. Natural stone.

d. Precast concrete panels or units if the surfaces have been integrally treated with an applied decorative material or texture.

e. Other materials as approved by the planning agency.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal and shall be of the same architectural design and general appearance as the principal building.

(Code 2015, § 10.46(10))

Sec. 10-622. Maximum building height.

The height of a building in the B-2 district shall not exceed 35 feet.

(Code 2015, § 10.46(11))

Secs. 10-623—10-647. Reserved.

DIVISION 8. B-3 HIGHWAY BUSINESS DISTRICT

Sec. 10-648. Purpose.

The B-3 district is designed and intended to provide for automobile oriented commercial developments within the vicinity of streets with functional classifications of either arterials or major collectors. Such commercial developments are generally characterized by large parking areas. The district also encourages a broad range of business and light industrial activities.

(Code 2015, § 10.47(1))

Sec. 10-649. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the B-3 district. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

(1) Uses listed as permitted uses in the B-1 district.

(2) Automobile service stations and car washes, as regulated in article X, division 2, of this chapter.

(3) Automobile glass, muffler, and upholstery repair services.

(4) Automobile parts and accessory sales.

(5) Automobile repair garages, including automobile glass, muffler, tire, and electronics installation.

(6) Automobile sales (new and used) and automobile storage. Outside display and storage of automobiles is permitted.

(7) Banks and savings and loans, including drive-in facilities.

(8) Boat sales and service, not including wrecking or dismantling.

(9) Bowling alleys and billiard parlors.

(10) Bus depots, including ticket offices.

(11) Catalog and mail order services.

(12) Clubs and lodges, not including the accessory sale of food or alcoholic beverages unless permitted by a conditional use permit.

(13) Convenience stores.

(14) Dairy product stores.

(15) Drive-in facilities per the regulation contained in article X, division 2, of this chapter.

(16) Funeral homes.

(17) Hotels and motels.

(18) Meeting halls, not including the accessory sales of food or alcoholic beverages unless permitted by a conditional use permit.

(19) Motorcycle sales.

(20) Newsstands.

(21) Pet stores.

(22) Radio and television broadcasting, including transmitters and studios.

(23) Restaurants, bars, and other eating and nonalcoholic drinking establishments, including unenclosed seating and servicing areas as regulated in article X, division 2, of this chapter.

(24) Secondhand stores.

(25) Surface parking lots and parking structures or garages.

(26) Theaters, excluding drive-ins.

(27) Tire sales and supply stores.

(28) Upholstery shops.

(Code 2015, § 10.47(2))

Sec. 10-650. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the B-3 district. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment.

(1) Any use that exceeds 30,000 square feet of gross floor area.

(2) Collection of recyclable materials at temporary locations, subject to the special requirements set forth in article X, division 2, of this chapter.

(3) Community convention centers.

(4) Government institutions.

(5) Light manufacturing and assembly, subject to the special requirements set forth below.

(6) Shopping malls.

(7) Self-service storage facility.

(8) Shipping and outside storage when accessory to a permitted or conditional use. If allowed, such outside storage shall conform to the restrictions of article X, division 2, of this chapter.

(9) Sport arenas and stadiums.

(10) Other commercial and residential uses determined by the planning agency to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and to the general public health, safety, and welfare.

(11) Indoor firing ranges, per the restrictions of article X, division 2, of this chapter.

(Code 2015, § 10.47(3))

Sec. 10-651. Special requirements for light manufacturing and assembly.

The following special requirements shall apply to light manufacturing and assembly conducted in the B-3 district:

(1) Outside storage, conforming to article X, division 2, of this chapter, may be allowed by a conditional use permit.

(2) Notwithstanding the yard requirements of this section, light manufacturing and assembly conducted in this district shall be subject to the yard requirements of the PI district, article VII, division 2, of this chapter.

(Code 2015, § 10.47(4))

Sec. 10-652. Minimum lot area.

The minimum lot area in the B-3 district is 10,000 square feet.

(Code 2015, § 10.47(5))

Sec. 10-653. Minimum street frontage.

The minimum street frontage in the B-3 district shall be 150 feet.

(Code 2015, § 10.47(6))

Sec. 10-654. Yards and setbacks.

The yard and setback requirements for the B-3 district are as follows:

(1) *Front yard setback.* There shall be provided a 15-foot front yard setback to an impervious parking or storage surface or any portion of a building.

(2) *Side yard setback.* There shall be provided a three-foot side yard setback to an impervious parking or storage surface and a six-foot setback to any portion of a building. The corner side yard setback to an impervious parking or storage surface or any portion of a building along the secondary street frontage of a corner lot shall be equal to that of the front yard setback required in this district.

(3) *Rear yard setback.* There shall be provided a three-foot rear yard setback to an impervious parking or storage surface and six feet to any portion of a building.

(4) *Transitional yard.* A transitional yard shall be provided anywhere a B-3 district abuts a residential district. The yard shall conform to the following requirements:

a. The dimensions of the required transitional yard on the property located in the B-3 district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.

b. The transitional yard shall extend the entire length of the abutting residential district boundary.

c. The transitional yard shall not be less than a yard required in the B-3 district.

d. The transitional yard shall not be required to be more than 20 feet in depth.

e. The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter.

(Code 2015, § 10.47(7))

Sec. 10-655. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on the zoning lot in the B-3 district shall not exceed 75 percent of the lot area.
(Code 2015, § 10.47(8))

Sec. 10-656. Maximum floor area ratio.

The maximum floor area ratio in the B-3 district shall be 1.0.
(Code 2015, § 10.47(9))

Sec. 10-657. Building design and construction.

All buildings and structures in the B-3 district shall meet the following building design and construction standards:

(1) *Exterior wall finish.* All exterior wall finishes on any building or structure shall be of the following materials, or a combination of the following materials:

a. Face brick.

b. Natural stone.

c. Precast concrete panels or units if the surfaces have been integrally treated with an applied decorative material or texture.

d. Other materials as approved by the planning agency.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

(Code 2015, § 10.47(10))

Sec. 10-658. Maximum building height.

There shall be no restriction to the maximum floor area ratio in this district.

(Code 2015, § 10.47(11))

Secs. 10-659—10-689. Reserved.

DIVISION 9. GT GATEWAY OVERLAY DISTRICTS

Subdivision I. In General

Sec. 10-690. General purpose.

The GT district contained in this section are intended to promote high quality development in the city's gateways. The areas included within the districts are located at major entryways into the city, within neighborhood service nodes, and at gateways to and within commercial districts. The design features and standards included in this article are intended to create a memorable and positive first impression upon entering the city and establish an image and character that is uniquely Mankato's, in addition to servicing emerging neighborhoods and promoting transit and pedestrian-level development.

(Code 2015, § 10.48(intro. ¶); Ord. of 5-8-2006)

Secs. 10-691—10-708. Reserved.

Subdivision II. DGT Downtown Gateway Overlay District

Sec. 10-709. Purpose.

The DGT district is intended to promote high quality design in the city's downtown. The areas included within this district are located within Old Town, the CBD-C district, the CBD-F district, and along South Front Street. The design features and standards included in this article are not only to create a positive impression of the city's downtown, but also to establish an image and character that is unique to the city. This article is intended to implement and effectuate the principles established in the Urban Design Framework Manual. The principles outlined in the manual are to be carried out

through standards related to site planning, signage, architecture, and landscaping. The Urban Design Framework Manual is to be referenced to determine if a development conforms to this article.
(Code 2015, § 10.48(1)(1); Ord. of 5-8-2006)

Sec. 10-710. Application.

The standards of the DGT district shall be applied to those parcels and lots that are located within Old Town, the CBD-C district, CBD-F district, and along South Front Street. The development of properties within the DGT district shall conform to the provisions of this section, the underlying zoning district, and the other provisions of this article.
(Code 2015, § 10.48(1)(2); Ord. of 5-8-2006)

Sec. 10-711. Minimum lot area.

The minimum lot area in the DGT district is 3,000 square feet.
(Code 2015, § 10.48(1)(3); Ord. of 5-8-2006)

Sec. 10-712. Minimum street frontage.

The minimum street frontage in the DGT district shall be 22 feet.
(Code 2015, § 10.48(1)(4); Ord. of 5-8-2006)

Sec. 10-713. Yards and setbacks.

The yard and setback requirements for the DGT district are as follows:

(1) *Front yard build-to line/setback.* In the front yard, a build-to line is established which provides a minimum and maximum front setback for principal buildings, as follows:

a. The minimum building setback shall be zero feet and the maximum shall be 15 feet from the right-of-way or roadway easements. The minimum and maximum setback shall apply to both frontages on a corner lot.

b. Automobile gasoline canopies shall be located to the side and rear of the principal building and shall not be located in the front yard build-to line or setback.

c. The placement of a building shall be reviewed in order to determine if the building unduly restricts vehicular or pedestrian sight distances (section 5-20(b)). If it is found that the building placement unduly restricts sight distances, the building placement shall be adjusted to a maximum setback of 15 feet.

d. The front yard build-to line/setback may be varied if a floor area bonus incentive is proposed in the CBD-C or CBD-F. The standards for reviewing a request for floor area bonus incentives shall conform to provisions of divisions 4 and 5 of this article.

(2) *Side yard/rear yard setback.* There shall be provided a three-foot side yard and rear yard setback to a surface parking lot, driving lane, or storage surface. The setback shall not include curbs and shall consist entirely of a landscaped area. Parking and driving areas shall be located to the side or rear of the main building unless the parking and driving area is part

of an approved floor area bonus incentive. No side or rear yard building setback is required, provided the building conforms to the state building code and a common wall agreement is entered into between the property owners along a shared property line.

(3) *Screening of parking areas.* Wherever a surface parking area faces a street frontage, the parking area shall be screened from the street with a wall, fence, or hedge to a minimum of four feet nor more than eight feet in height, not be less than 80 percent opaque.

(4) *Drive-through facilities.* Drive-through facilities and associated driving lanes shall be located to the side or rear of a building.

(Code 2015, § 10.48(1)(5); Ord. of 5-8-2006)

Sec. 10-714. Maximum ground coverage.

The maximum building coverage shall conform to the requirements of the underlying zoning district.

(Code 2015, § 10.48(1)(6); Ord. of 5-8-2006)

Sec. 10-715. Maximum floor area ratio.

The maximum floor area ratio shall conform to the requirements of the underlying zoning district.

(Code 2015, § 10.48(1)(7); Ord. of 5-8-2006)

Sec. 10-716. Building design and construction.

All buildings and structures in the DGT district shall meet the following building design and construction standards:

(1) *Exterior wall finish.*

a. All exterior wall finishes on any building structure shall be of the following materials, or a combination of the following materials:

1. Face brick.
2. Natural stone.
3. Precast concrete panels, provided the material has been integrally treated with a color and the surfaces have a texture or pattern that gives the panel the appearance of natural stone or brick.
4. Concrete block, not to exceed 20 percent of a wall area, if the surfaces have a texture or pattern discernibly different from flat smooth concrete, and if the material is either integrally color or treated with a long-lasting durable decorative finish.
5. Glass.
6. Stucco, or similar durable cement-based material, not to exceed 20 percent of a wall area.
7. Metal accent or framing materials, but only as minor part of the overall façade treatment.

8. Other materials of similar quality and durability as approved by the city council.

b. The design of building elevations shall conform to the urban design guidelines. Walls facing the street or walkways should be punctuated with display windows, doors, indentations, or other fenestration to add visual interest on the street. All sides of a building visible to the public should be treated consistently with quality materials and finishes.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building and all necessary building and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearances as the principal buildings.

(Code 2015, § 10.48(1)(8); Ord. of 5-8-2006)

Secs. 10-717—10-745. Reserved.

Subdivision III. CGT Commercial Gateway District

Sec. 10-746. Purpose.

The CGT district is intended to promote high quality design in the city's commercial districts. The areas included within this district are located in commercial districts at major intersections within the city. The design features and standards included in this article are not only to create a positive impression within the city's commercial district, but also to establish nodes that are attractive for users of mass transit and other modes of transportation. This article is intended to implement and effectuate the principles established in the Urban Design Framework Manual. The principles outlined in the manual are to be carried out through standards related to site planning, signage, architecture, and landscaping. The Urban Design Framework Manual is to be referenced to determine if a development conforms to this article.

(Code 2015, § 10.48(2)(1); Ord. of 5-8-2006)

Sec. 10-747. Application.

The standards of the CGT district shall be applied to those parcels and lots within commercial zoning districts that are located within 500 feet from the centerline intersection of an arterial and collector and 500 feet from the centerline of the intersection of two collectors. Street arterials and collectors are depicted on Figure 12, Future Functional Classification System, Mankato Area Transportation and Planning Study (as amended from time to time).

(Code 2015, § 10.48(2)(2); Ord. of 5-8-2006)

Sec. 10-748. Minimum lot area.

The minimum lot area in the CGT district is 7,000 square feet.

(Code 2015, § 10.48(2)(3); Ord. of 5-8-2006)

Sec. 10-749. Minimum street frontage.

The minimum street frontage in the CGT district shall be 75 feet, with a maximum street frontage of 200 feet.
(Code 2015, § 10.48(2)(4); Ord. of 5-8-2006)

Sec. 10-750. Yards and setbacks.

The yard and setback requirements for the CGT district are as follows:

(1) *Front yard build-to line/setback.* In the front yard a build-to line is established which provides a minimum and maximum front setback for principal buildings, as follows:

a. On corner lots, the minimum building setback shall be 15 feet and the maximum shall be 20 feet from the right-of-way or roadway easement, except where a drive-through facility is review and approved under the standards for a conditional use permit per article XI, division 3, of this chapter, in which the maximum building setback is 40 feet (refer to subsection (5)c of this section). The minimum and maximum setbacks shall apply to both frontages.

b. On corner lots, surface parking areas shall be located to the rear or side of the principal building. The setback for parking areas shall not be less than 15 feet from the right-of-way line.

c. On interior lots, the minimum building setback shall be 15 feet and the maximum shall be 85 feet from the right-of-way or roadway easement.

d. On interior lots, the minimum front yard setback to surface parking or driving lanes shall be 15 feet. A pedestrian walkway shall be provided and designated through the parking lot from a public sidewalk to the main entrance of the building.

e. On corner lots, automobile gasoline canopies are not considered principal buildings; canopies shall be located to the side or rear of the principal building. The requirements of section 10-1496 shall also apply to automobile service stations.

(2) *Side yard/rear yard setback.* There shall be provided a three-foot side yard and rear yard setback to an impervious parking or storage surface and a six-foot setback to any portion of a building.

(3) *Screening of parking areas.* Wherever a surface parking area faces a street frontage, the parking area shall be screened from the street with a wall, fence, or hedge to a minimum of four feet nor more than eight feet in height, nor be less than 80 percent opaque.

(4) *Drive-through facilities.* Drive-through facilities and associated driving lanes shall be located to the side or rear of a building.

(5) *Transitional yard.* A transitional yard shall be provided anywhere development in a CGT district abuts a residential district in a side yard or rear yard condition. The transitional yard shall conform to the following requirements:

a. The transitional yard shall be equal to the yard area required in the abutting residential district, not to exceed 20 feet in depth where the building height on the zoning lot in the

CGT is equal to or less than 35 feet. When the building height in the CGT is more than 35 feet the transitional yard depth shall each be increased by one-foot over and above the requirements for the district for each two feet of building height above the building height limit for the zoning district.

b. The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter.

c. No transitional yard is required if the CGT district is across the street from a residential district.

(Code 2015, § 10.48(2)(5); Ord. of 5-8-2006; Ord. of 9-24-2012)

Sec. 10-751. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on the zoning lot in the CGT district shall not exceed 75 percent of the lot area.
(Code 2015, § 10.48(2)(6); Ord. of 5-8-2006)

Sec. 10-752. Maximum floor area ratio.

The maximum floor area ratio in the CGT district shall be 1.5.
(Code 2015, § 10.48(2)(7); Ord. of 5-8-2006)

Sec. 10-753. Building design and construction.

All buildings and structures in the CGT district shall meet the following building design and construction standards:

(1) *Exterior wall finish.*

a. All exterior wall finishes on any building structure shall be of the following materials, or a combination of the following materials:

1. Face brick.
2. Natural stone.
3. Precast concrete panels, provided the material has been integrally treated with a color and the surfaces have a texture or pattern that gives the panel the appearance of natural stone or brick.
4. Concrete block not to exceed 20 percent of a wall area provided the surfaces have a texture or pattern discernibly different from flat smooth concrete, and if the material is either integrally colored or treated with a long-lasting durable decorative finish.
5. Glass.
6. Stucco, or similar durable cement-based material, not to exceed 20 percent of a wall area.
7. Accent or framing materials of metal or wood, but only if they form a minor part of the overall façade treatment.

8. Other materials of similar quality and durability as approved by the city council.

b. The design of building elevations shall conform to the urban design guidelines. Walls facing the street or walkways should be punctuated with display windows, doors, indentations, or other fenestration to add visual interest on the street. All sides of a building visible to the public should be treated consistently with quality materials and finishes.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building and all accessory building and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

(Code 2015, § 10.48(2)(8); Ord. of 5-8-2006)

Sec. 10-754. Maximum building height.

There is no restriction on maximum building height unless otherwise provided in the transitional yard requirements.

(Code 2015, § 10.48(2)(9); Ord. of 5-8-2006)

Sec. 10-755. Existing subdivisions.

Corner lots within subdivisions that were recorded prior to the adoption of the ordinance from which this division is derived shall be permitted to vary the front yard build-to line/setback provided the maximum building setback shall not be more than 85 feet. If the front yard build-to line/setback is varied, landscaping and structural elements, such as walls, wrought-iron fencing, or monuments shall be utilized in the site design at the build-to line/setback to satisfy the purpose and intent of the build-to line requirements. All other provisions shall apply to the lot. If an existing subdivision is resubdivided, the lots created within the new subdivision, and the development on the lots, shall comply with the provisions of this section.

(Code 2015, § 10.48(2)(10); Ord. of 5-8-2006)

Sec. 10-756. Existing development, new development, and redevelopment.

Per section 10-440, existing development and structures within the areas of application of this district shall not be considered nonconforming and shall be permitted to continue and expand in a manner consistent with existing conditions, designs, and approvals granted under this article. Standards for new development and redevelopment are defined in section 10-440 and shall generally comply with this subdivision unless otherwise permitted.

(Code 2015, § 10.48(2)(11); Ord. of 5-8-2006)

Secs. 10-757—10-780. Reserved.

Subdivision IV. HGT Highway Gateway Overlay District

Sec. 10-781. Purpose.

The HGT district is intended to promote high quality design in the city's gateways. The areas included within this district are located at major entryways into the city and are located in commercial

and office zoning districts. The design features and standards included in this article are not only to create a positive first impression upon entering the city, but also to establish an image and character that is uniquely Mankato's. This article is intended to implement and effectuate the principles established in the Urban Design Framework Manual. The principles outlined in the manual are to be carried out through standards related to site planning, signage, architecture, and landscaping. The Urban Design Framework Manual is to be referenced to determine if a development conforms to this article.
(Code 2015, § 10.48(3)(1); Ord. of 5-8-2006)

Sec. 10-782. Application.

The standards of the HGT district shall be applied to those parcels and lots located within commercial or office zoning districts that re located within 1,000 feet from the center lien of the intersection of two arterials, as depicted on Figure 12. In situations where the HGT district overlaps with a commercial gateway, the provisions of the HGT district shall apply to the property.
(Code 2015, § 10.48(3)(2); Ord. of 5-8-2006)

Sec. 10-783. Minimum lot area.

The minimum lot area in the HGT district is 10,000 square feet.
(Code 2015, § 10.48(3)(3); Ord. of 5-8-2006)

Sec. 10-784. Minimum street frontage.

The minimum street frontage in the HGT district shall be 150 feet.
(Code 2015, § 10.48(3)(4); Ord. of 5-8-2006)

Sec. 10-785. Yards and setbacks.

The yard and setback requirements for the HGT district are as follows:

(1) *Front yard build-to line/setback.* In the front yard, a build-to line is established which provides a minimum and maximum front setback for principal buildings, as follows:

a. On corner lots the minimum building setback shall be 15 feet and the maximum shall be 85 feet from the right-of-way or roadway easements. The minimum and maximum setback shall apply to both frontages.

b. On interior lots the minimum building setback shall be 15 feet and the maximum shall be 150 feet from the right-of-way or roadway easement.

c. On interior lots the minimum front yard setback to surface parking or drive lanes shall be 15 feet. If a public sidewalk or trail is located in the abutting public right-of-way or easement, a pedestrian walkway shall be provided and designated through the parking lot to the main entrance of the building. There is no maximum parking setback required.

d. On lots with more than one street frontage, the build-to line shall apply on each side fronting a street.

e. The build-to line setbacks established for corner and interior lots may be varied for commercial planned unit developments or mixed use planned unit developments provided development sites are designated around the perimeter of the planned unit development for uses that will conform to the build-to line setbacks. The overall development plan for the planned unit development shall include conforming building locations and associated landscaping required by this subsection and article X, division 9, of this chapter.

(2) *Screening of parking areas.* Wherever a surface parking area faces a street frontage, the parking area shall be screened from the street with a wall fence, or hedge to a minimum of four feet nor more than eight feet in height, nor be less than 80 percent opaque. This screening must be accomplished in the setback area between ten feet and 15 feet from the right-of-way line.

(3) *Drive-through facilities.* Drive-through facilities associated with driving lanes shall be located to the side or rear of the building. Drive-through facilities with driving lanes between the building and property frontage may be allowed by a conditional use permit, provided that the drive-through service window and menu board do not face the primary public street frontage and landscaping is provided between the property line and drive-through per subsection (5)b of this section.

(4) *Side yard/rear yard setback.* There shall be provided a three-foot side yard or rear yard setback to an impervious parking or storage surface and a six-foot setback to any portion of a building.

(5) *Transitional yard.* A transitional yard shall be provided anywhere development in a HGT district abuts a residential district in a side yard or rear yard condition. The transitional yard shall conform to the following requirements:

a. The transitional yard shall be equal to that of the abutting a residential district, not to exceed 20 feet in depth.

b. The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter.

c. No transitional yard is required if the HGT district is across the street from a residential district.

(Code 2015, § 10.48(3)(5); Ord. of 5-8-2006; Ord. of 9-24-2012)

Sec. 10-786. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on the zoning lot in the HGT district shall not exceed 75 percent of the lot area.
(Code 2015, § 10.48(3)(6); Ord. of 5-8-2006)

Sec. 10-787. Maximum floor area ratio.

There shall be no restriction to the maximum floor area ratio in the HGT district.
(Code 2015, § 10.48(3)(7); Ord. of 5-8-2006)

Sec. 10-788. Building design and construction.

All buildings and structures in the HGT district shall meet the following building design and construction standards:

(1) *Exterior wall finish.*

a. All exterior wall finishes on any building structure shall be of the following materials, or a combination of the following materials:

1. Face brick.
2. Natural stone.
3. Precast concrete panels, provided the material has been integrally treated with a color, or if the surfaces have a texture or pattern that gives the panel the appearance of natural stone or brick.
4. Concrete block not to exceed 20 percent of a wall areas, provided the surfaces have a texture or pattern discernibly different from flat smooth concrete, and if the material is either integrally colored or treated with a long-lasting durable decorative finish.
5. Glass.
6. Stucco, or similar durable cement-based material, not to exceed 20 percent of a wall area.
7. Accent or framing materials of metal or wood, but only if they form a minor part of the overall façade treatment.
8. Other materials of similar quality and durability as approved by the city council.

b. The design of building elevations shall conform to the urban design guidelines. Walls facing the street or walkways should be punctuated with display windows, doors, indentations, or other fenestration to add visual interest on the street. All sides of a building visible to the public should be treated consistently with quality materials and finishes.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

(Code 2015, § 10.48(3)(8); Ord. of 5-8-2006)

Sec. 10-789. Maximum building height.

There shall be no restriction to the maximum building height in the HGT district.

(Code 2015, § 10.48(3)(9); Ord. of 5-8-2006)

Sec. 10-790. Existing subdivisions.

This subdivision shall not apply to subdivisions that were recorded prior to the adoption of the ordinance from which this subdivision is derived. If an existing subdivision is resubdivided, the lots created within the new subdivision, and the development on the lots, shall comply with the provisions of this section.
(Code 2015, § 10.48(3)(10); Ord. of 5-8-2006)

Sec. 10-791. Existing development, new development, and redevelopment.

Per section 10-440, existing development and structures within the areas of the application of this district shall not be considered nonconforming and shall be permitted to continue and expand in a manner consistent with existing conditions, designs, and approvals granted under this article. Standards for new development and redevelopment are defined in section 10-440, and shall generally comply with this section unless otherwise permitted.
(Code 2015, § 10.48(3)(11); Ord. of 5-8-2006)

Secs. 10-792—10-820. Reserved.

Subdivision V. NGT Neighborhood Node Gateway Overlay District

Sec. 10-821. Purpose.

(a) The NGT district is intended to promote high quality service orientated development in the city's existing and development neighborhoods. The areas included within this district are located within designated neighborhoods in the city and depicted on the official zoning map.

(b) The purpose of the design features and standards included in this article are not only to create a positive impression upon entering the neighborhood, but also to fulfill the service demands of the residents in the vicinity of the district. The location of the district must be considered strategically in order to promote pedestrian traffic to the neighborhood node, and in the development of residential areas, particular attention should be given to the creation of pedestrian links to the neighborhood node. The district is also intended to promote the use of mass transit by providing locations that are attractive for users of transit facilities.

(c) This article is intended to implement and effectuate the design principles established in the Urban Design Framework Manual. The principles outlined in the manual are to be carried out through standards related to site planning, signage, architecture, and landscaping. The Urban Design Framework Manual is to be referenced to determine if a development conforms to this article.
(Code 2015, § 10.48(4)(1); Ord. of 5-8-2006)

Sec. 10-822. Application.

(a) The standards of the NGT district shall be applied to those areas depicted on the official zoning map. Generally, the location of the district shall be on collector routes within a residential area in order to promote pedestrian access and mass transit service. Generally, the spacing of neighborhood nodes should be such that the travel distance within a residential area does not exceed one-fourth of a mile.

(b) The district shall be applied to areas that are zoned B-1 district, and the uses shall be limited to the permitted uses and conditional uses that are less than 10,000 square feet in gross floor area. Any use that serves alcoholic beverages shall be limited to a Class R license use, described in chapter 3. Furthermore, automobile fueling facilities shall be prohibited in this district.
(Code 2015, § 10.48(4)(2); Ord. of 5-8-2006)

Sec. 10-823. Minimum lot area.

The minimum lot area in the NGT district is 6,000 square feet.
(Code 2015, § 10.48(4)(3); Ord. of 5-8-2006)

Sec. 10-824. Maximum street frontage.

The maximum street frontage in NGT district shall be 150 feet.
(Code 2015, § 10.48(4)(4); Ord. of 5-8-2006)

Sec. 10-825. Yards and setbacks.

The yard and setback requirements for the NGT district are as follows:

(1) *Front and corner side yard build-to line/setback.* In the front and corner side yards, a build-to line is established which provides a minimum and maximum front setback for principal buildings, as follows:

a. On corner lots the minimum building setbacks hall be 15 feet and the maximum shall be 20 feet from the right-of-way or roadway easements. The minimum and maximum setback shall apply to both frontages.

b. On corner lots, surface parking areas shall be located to the rear or side of the principal building. The setback for parking areas shall not be less than 15 feet from the right-of-way.

c. On interior lots the minimum building setback shall be 15 feet and the maximum shall be 60 feet from the right-of-way or roadway easement.

d. On interior lots the minimum front yard setback to surface parking or driving lanes shall be 15 feet. A pedestrian walkway shall be provided and designated through the parking lot from a public sidewalk to the main entrance of the building.

e. Outdoor seating may occupy up to 50 percent of the minimum and maximum setback areas on a corner lot.

(2) *Screening of parking areas.* Wherever a surface parking area faces a street frontage, the parking area shall be screened from the street with a wall, fence, or hedge to a minimum of four feet nor more than eight feet in height, nor be less than 80 percent opaque.

(3) *Drive-through facilities.* Drive-through facilities and associated driving lanes shall be located to the side or rear of the building.

(4) *Side yard/rear yard.* There shall be provided a three-foot side yard and rear yard setback to an impervious parking or storage surface and a six-foot setback to any portion of a building.

(5) *Transitional yard.* A transitional yard shall be provided anywhere development in an NGT district abuts a residential district. The transitional yard shall conform to the following requirements:

a. The transitional yard shall be equal to the yard area in the abutting residential district, not to exceed 15 feet in depth in instances where the building height on the zoning lot in the NGT district is equal to or less than 35 feet. When the building height in the NGT district is more than 35 feet, as approved in a planned unit development, the transitional yard depth shall each be increase by one foot over and above the requirement for the district for each two feet of building height above the building height limit for the zoning district.

b. The transitional yard shall be landscaped in conformance with article X, division 8, of this chapter. This provision does not apply to situations where a public street is the boundary between the NGT district and a residential district.

(Code 2015, § 10.48(4)(5); Ord. of 5-8-2006)

Sec. 10-826. Maximum ground coverage.

The sum total of ground areas that may be covered by all structures located on the zoning lot in the NGT district shall not exceed 75 percent of the lot area.
(Code 2015, § 10.48(4)(6); Ord. of 5-8-2006)

Sec. 10-827. Maximum floor area ratio.

The maximum floor area ratio in the NGT district shall meet the building design and construction standards in section 10-828.
(Code 2015, § 10.48(4)(7); Ord. of 5-8-2006)

Sec. 10-828. Building design and construction.

All buildings and structures in the NGT district shall meet the following building design and construction standards:

(1) *Exterior wall finish.*

a. All exterior wall finishes on any building structure shall be of the following materials, or a combination of the following materials:

1. Face brick.
2. Natural stone.
3. Precast concrete panels, provided the material has been integrally treated with a color and the surfaces have a texture or pattern that gives the panel the appearance of natural stone or brick.
4. Concrete block not to exceed 20 percent of a wall area, if the surfaces have a texture or pattern discernibly different from flat smooth concrete, and if the material is either integrally colored or treated with a long-lasting durable decorative finish.

5. Glass.
6. Stucco or similar durable cement-based material, not to exceed 20 percent of a wall area.
7. Accent or framing materials of metal or wood, but only if they form a minor part of the overall façade treatment.
8. Other complimentary materials or designs of similar quality or durability as approved by the city council.

b. The design of building elevations shall conform to the urban design guidelines. Walls facing the street or walkways should be punctuated with display windows, doors, indentations, or other fenestration to add visual interest on the street. All sides of a building visible to the public should be treated consistently with quality of materials and finishes.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

(Code 2015, § 10.48(4)(8); Ord. of 5-8-2006)

Sec. 10-829. Maximum building height.

The maximum building height in the NGT district shall be 35 feet or as otherwise provided in an approved planned unit development under article XI, division 4, of this chapter.

(Code 2015, § 10.48(4)(9); Ord. of 5-8-2006)

Secs. 10-830—10-851. Reserved.

Subdivision VI. Gateway Design Review and Certification of Design Compliance

Sec. 10-852. Certificate of design compliance.

A certificate of design compliance shall be required for all construction activities as listed in this section. The purpose of the certificate of design compliance is to ensure that development activity will enhance the visual and aesthetic character of the gateways in accordance with the urban design guidelines adopted as part of the city's land use plan. A certificate of design compliance shall be required for the following:

(1) The expansion and exterior alternation of buildings, existing on the effective date of the ordinance from which this chapter is derived, when the expansion or exterior alteration requires a building permit. In such cases, the expansion or exterior alteration shall be compatible with the materials, color, scale, and architectural features of the existing buildings.

(2) The construction of new buildings.

(3) Moving a building.

(4) Demolition of a building.

(5) Adding or removing landscaping plantings in excess of 100 square feet in area.

(6) Erection of signs.

(Code 2015, § 10.48(5)(1); Ord. of 5-8-2006)

Sec. 10-853. Application and plans.

An application for a certificate of design compliance shall be submitted to the planning agency for any activity in gateway districts listed in section 10-852. Prior to the filing of an application, the developer shall meet with the city manager, or designee, for informal discussions regarding the proposed development. As far as practical, the city manager, or designee, will advise the developer as to the extent the proposed development conforms to the design criteria set forth in the urban design guidelines and suggest possible plan modification. The form of application shall be supplied by the city's division of planning and development services. The application shall be accompanied by detailed plans for the proposed activity; such plans shall, at a minimum, include:

(1) Description of site.

(2) Area of site (in square feet or acres).

(3) Date, north arrow, and scale (1:20, 1:50, or 1:100).

(4) Name and address of persons preparing the plan.

(5) Key map showing the site location and existing structures within 100 feet of the site.

(6) Scaled footprint of main building and all accessory structures.

(7) On-site open space and landscaped areas, including plant species, fencing, and other landscape amenities.

(8) Location of on-site parking facilities.

(9) Loading and servicing areas.

(10) Scale drawings of all proposed building elevations, including roof plan.

(11) Floor plans to scale.

(12) Sign plan showing materials, colors and area.

(13) Perspectives, building elevations of all sides of the building, scaled model or other suitable graphic materials as required.

(14) Material samples for exterior building materials.

(Code 2015, § 10.48(5)(2); Ord. of 5-8-2006)

Sec. 10-854. Plan review.

Upon receipt of a completed application for a certificate of design compliance, the city manager, or designee, shall forward the application to the planning commission if the estimated cost of the activity outlined in the application exceeds $100,000.00. For activities with an estimated cost in excess of $100,000.00, the planning commission shall review the activity to determine whether the

proposed project meets the intent and requirements of this section. If the cost of the activity exceeds $500,000.00, the planning commission shall forward a recommendation to the city council regarding the activity's compliance with this section. For activities with an estimated cost of less than $100,000.00, the city manager, or designee, shall be responsible for undertaking an expeditious and timely review to determine whether the proposed project meets the intent and requirements of this section.
(Code 2015, § 10.48(5)(3); Ord. of 5-8-2006)

Sec. 10-855. Issuance of certificate of design compliance.

(a) The reviewing authority, as designed in section 10-854, may issue a certificate of design compliance for any of the activities listed in section 10-853. The city council shall have the sole authority for issuing certificates for all new developments or significant redevelopments of property.

(b) The city council, planning commission, and city manager, or designee shall issue a certificate of design compliance only if there is a formal finding that the activity complies with the provisions of this section.

(c) In the event the activity outlined in the application is found not to comply with the provisions of this section, the applicant shall be notified of the finding within ten days of the reviewing body's decision. The notification shall include the finding of the reviewing body and a recommendation as to how the activity could be altered to comply with the provisions of this section.
(Code 2015, § 10.48(5)(4); Ord. of 5-8-2006)

Secs. 10-856—10-873. Reserved.

ARTICLE VI. DESIGN REVIEW

DIVISION 1. GENERALLY

Secs. 10-874—10-894. Reserved.

DIVISION 2. DOWNTOWN DESIGN DISTRICT

Sec. 10-895. Statement of purpose.

The city's downtown design district, defined on the official zoning map, is intended to be the community's downtown showcase business and civic district. The city council finds that the area's visibility, private and public assets, and economic importance gives rise to the need for a special approach to the development of this area.
(Code 2015, § 10.51(1))

Sec. 10-896. Application; certificate of design compliance.

A certificate of design compliance shall be required for all construction activities, including all street and utility activities, within the downtown design district. No building permit shall be issued for any activity listed in this subsection unless a certificate of design compliance has been issued. The purpose of the certificate of design compliance is to ensure that development activity will enhance the visual and aesthetic character of the downtown area in accordance with the Riverfront 2000 plan and the design framework set forth in this document. A certificate of design compliance shall be required for the following:

(1) The expansion and exterior alteration of buildings, existing on the effective date of the ordinance from which this chapter is derived, when the expansion or exterior alteration requires a building permit. In such case, the expansion or exterior alteration shall be compatible with the materials, color, scale, and architectural features of the existing building.

(2) The construction of new buildings.

(3) Moving a building.

(4) Demolition of a building.

(5) Adding or removing landscaping plantings in excess of 100 square feet in area.

(6) Erection of signs.

(7) All mobile or seasonal concession vehicles/stands located within the downtown area which effectively become permanent structures by remaining immobile at the same location for more than three hours in any 24-hour period.

(Code 2015, § 10.51(2))

Sec. 10-897. Application and plans.

An application for a certificate of design compliance shall be submitted to the planning director for any activity in the downtown design district listed in section 10-896. Prior to the filing of an application, the developer shall meet with the planning director, or his or her designee, for informal discussions regarding the proposed development. As far as practical, the planning director will advise the developer as to the extent the proposed development conforms to the established design criteria set forth and suggest possible plan modification. Such form of application shall be supplied by the city's division of planning and development services. The application shall be accompanied by detailed plans for the proposed activity; such plans shall, at a minimum, include:

(1) Description of site.

(2) Area of site (in square feet or acres).

(3) Date, north arrow, and scale (1:20, 1:50, or 1:100).

(4) Name and address of persons preparing the plan.

(5) Key map showing the site location and existing structures within 100 feet of the site.

(6) Scaled footprint of main building and all accessory structures.

(7) On-site open space and landscaped areas, including plant species, fencing, and other landscape amenities.

(8) Location of on-site parking facilities.

(9) Loading and servicing areas.

(10) Scale drawings of all proposed building elevations, including roof plan.

(11) Floor plans to scale.

(12) Sign plan showing materials, colors, and area.

(13) Perspectives, model or other suitable graphic materials as required.

(14) Exceptions. The following activities shall not be required to submit the above plan items, provided that sufficient information is provided for a determination to be made by the planning director regarding the compliance of the activity:

a. The expansion and alteration of the exterior of buildings that exist on the effective date of the ordinance from which this chapter is derived.

b. Erection of signs.

c. All mobile or seasonal concession vehicles or stands located within the downtown area which effectively become permanent structures by remaining immobile at the same location for more than three hours in any 24-hour period.

(Code 2015, § 10.51(3))

Sec. 10-898. Plan review.

Upon receipt of a completed application for a certificate of design compliance, the planning director shall forward the application to the planning commission if the estimated cost of the activity outlined in the application exceeds $100,000.00. For activities with an estimated cost in excess of $100,000.00, the planning commission shall review the activity to determine whether the proposed project meets the intent and requirements of this section. If the cost of the activity exceeds $500,000.00, the planning commission shall forward a recommendation to the city council regarding the activity's compliance with this section. For activities with an estimated cost of less than $100,000.00, the planning director shall be responsible for undertaking an expeditious and timely review to determine whether the proposed project meets the intent and requirements of this section. The planning director shall, after receipt of a completed application, make every reasonable effort to communicate with the applicant regarding the status of the application during the review process.
(Code 2015, § 10.51(4))

Sec. 10-899. Issuance of certificate of design compliance.

(a) The city council, after receiving the recommendation of the planning commission, may issue a certificate of design compliance for any of the activities listed in section 10-896. The city council shall have the sole authority for issuing certificates for all new developments or significant redevelopments of property.

(b) The planning commission may issue certificates of design compliance for any activity listed in section 10-896 for which the estimated cost is less than $500,000.00. The planning director may issue a certificate of design compliance for any activity listed in section 10-896 for which the estimated cost is less than $100,000.00. The planning director or planning commission may refer any application for a certificate of design compliance to the city council for review.

(c) The city council, planning commission, and planning director shall issue a certificate of design compliance only if there is a formal finding that the activity complies with the provisions of this section. If more than 60 days have elapsed since the completed application was submitted to the planning director, and no formal finding has been given to the applicant as to whether the activity outlined in the application complies with this section, the application will be automatically approved and an application for a building permit may be submitted.

(d) In the event the activity outlined in the application is found not to comply with the provisions of this section, the applicant shall be notified of the finding within ten days of the reviewing body's decision. The notification shall include the finding of the reviewing body and a recommendation as to how the activity could be altered to comply with the provisions of this section.
(Code 2015, § 10.51(5))

Sec. 10-900. Design framework established.

(a) A design framework for the downtown design district is hereby established to serve as a basis for design review in the district. The primary goal of the design framework is to foster the sense of place within the downtown design district. To achieve this, the design framework presents specific objectives that will enhance the downtown design district's character, ensure harmonious new development, and strengthen the area's cohesiveness and attractiveness. The council finds that compliance with the objectives as set forth in this section will strengthen property values and protect the private and public investments made within the downtown design district.

(b) The standards and guidelines set forth in this design framework are intended to encourage sensitive architectural rehabilitation and preservation of the older significant buildings as well as establish standards for new developments which emphasize harmonious and unifying architectural design that will tie the entire district together. To refine or enhance the most desirable characteristics of the downtown design district, the following urban design standards and guidelines shall apply:

(1) *Acceptable exterior building materials.* Exterior building materials shall consist of traditional high quality materials, including:

a. Brick and mortar.

b. Cut limestone or other natural stone.

c. Pre-cast concrete units and concrete blocks, provided the surfaces are molded, serrated examples or treated with a texture material in order to give the wall surface a three-dimensional character.

d. Synthetic stucco and architectural panels.

e. Glass.

f. Weather-resistant metal accent or other metal determined to satisfy the intent of this section.

(2) *Colors.* Colors are an important element of the overall design concept for the downtown area and should be complementary to the downtown design district's showcase building, the Mankato Civic Center and Arena, or other historic and significant buildings in the vicinity.

(3) *Building mass and height.* Development proposals shall not degrade the appearance or function of other buildings in the area due to the new development's building mass or height.

(4) *Architectural features.* Architectural features which create a sculptural or three-dimensional quality such as marquees, balconies, grill work, sculpted keystones, caryatids, detailed cornices, brackets, niches, and awnings are encouraged. Such ornamentation also furthers the urban design goal of adding scale and texture to the district. However, these features shall be in keeping with the overall architectural style of the building and the character of the downtown design district.

(5) *Landscaping and lighting.*

a. New developments in the downtown design district will incorporate open areas accessory to the main building. Courtyards and plazas are encouraged. As far as practical, open areas shall be landscaped with a combination of trees, shrubs, flowers and ground cover, with decorative wrought iron fencing. Surface parking lots containing over ten parking stalls shall incorporate landscaping which comprises ten percent of the parking lot area.

b. Lighting standards along sidewalks or in open spaces and plazas shall be similar to lighting standards found along Hickory Street in the vicinity of the Mankato Civic Center and Arena. Lighting standards in parking lots and lots illuminated by building surface-mounted lights may use an alternative fixture with the approval of the planning director. Decorative standards are encouraged for parking lots but a shoe box type fixture or other fixture may be approved, provided it does not exceed 40 feet in height.

(6) *Visual connections and gateways.* It is recognized in the Riverfront 2000 plan that several areas in the downtown design district serve as gateways to the downtown area. In addition, the public roadways in the downtown area serve as visual connections. These visual connections serve as visual access between structural elements in the downtown area (for example, South Riverfront Drive in the vicinity of the depot and civic center), and visual connections between the downtown core and adjoining land use districts or significant buildings located outside of the area (for example, Jackson Street, which serves as a visual connection between Mankato Place and the Old Main Building). Visual connections and gateways are important to the perception of the downtown areas and development proposals shall be reviewed on the basis of how the corridors and gateways will be impacted. New landscaping, building construction, or building alteration, shall be designed to not unduly block or compromise connections or gateways.

(7) *Signs.* Signs shall conform to district standards as set forth in article X, division 7, of this chapter. Neon, wall signs consisting of individual letters, projecting sculptural or carved signs with wrought iron brackets, and decorative banners and flags are encouraged.

(8) *Downtown design area supplement.* The planning agency shall develop and recommend to the council a downtown design area supplement that will serve as a guideline for the implementation of the design framework.

(Code 2015, § 10.51(6))

Sec. 10-901. Special review considerations.

(a) Because of the varying characteristics of the land uses allowed and adjacent uses, projects must be viewed in the context of existing and planned developments. The council may impose special design requirements upon a proposed use in order to mitigate undue negative impacts on surrounding uses.

(b) When considering the aesthetics of a development proposal, it should be recognized that developments must maintain their economic viability if any improvements are to be made in the district.

(c) Review of activities in the downtown design district should be mindful of the need and requirements for handicapped accessibility in its review of development proposals.

(d) The forgoing urban design guidelines are in no way intended to create uniformity which would result in an uninteresting and contrived appearance. New developments and alterations to existing structures which add to the variety of compatible uses, harmonious visual images, and rich sensory experiences of the district are encouraged.

(Code 2015, § 10.51(7))

Sec. 10-902. Nonconforming buildings.

Buildings existing on the effective date of the ordinance from which this chapter is derived which are considered nonconforming under the design framework contained in section 10-900, may continue in their present appearance and design. Any such nonconforming structure which is damaged or destroyed by any means not within the control of the owner, may be repaired or restored to its preexisting condition, provided that if the structure is destroyed by more than 50 percent of its assessed market value before destruction or damage, the structure shall conform to the use, bulk, density, and height provisions of this article.

(Code 2015, § 10.51(8))

Sec. 10-903. Sequence of approval of applications for both a certificate of compliance and conditional use permit or variance.

An application for a certificate of design compliance shall be reviewed by the council concurrent with the consideration of an application for a conditional use permit or variance addressing the same activity.

(Code 2015, § 10.51(9))

Sec. 10-904. Violations.

If any building or structure is erected, constructed, reconstructed, altered, repaired, or converted in a violation of this article, the city may institute any proper action or proceedings and shall have police power to prevent the occupancy of the building.
(Code 2015, § 10.51(10))

Sec. 10-905. Fees.

An applicant for a certificate of design compliance shall pay a nonrefundable filing fee, as provided in the city fee schedule, in connection with the submittal of the application. There shall be no filing fee for activities with an estimated cost of less than $100,000.00. A nonrefundable filing fee, as provided in the city fee schedule, shall be required for activities with an estimated cost between $100,000.00 and $500,000.00. A nonrefundable filing fee, as provided in the city fee schedule, shall be required for activities with an estimated cost of more than $500,000.00.
(Code 2015, § 10.51(11))

Sec. 10-906. Other regulations applicable.

The regulations contained in this article shall be deemed to be in addition to zoning district standards contained in this Code and other applicable laws, ordinances, rules, and regulations. Where conflicts occur, the more restrictive regulations shall apply.
(Code 2015, § 10.51(12))

Secs. 10-907—10-930. Reserved.

ARTICLE VII. INDUSTRIAL DISTRICTS

DIVISION 1. GENERALLY

Sec. 10-931. Accessory uses and structures.

Accessory uses and structures, including accessory surface parking lots and parking structures or garages, are permitted in the industrial districts subject to the regulations of article X, division 1, of this chapter.
(Code 2015, § 10.61(1); Ord. of 7-10-2000)

Sec. 10-932. Compliance with applicable regulations.

Any use established in an industrial district after the effective date of the ordinance from which this chapter is derived shall be so operated as to comply with all applicable local, state, and federal standards for such uses, including, but not limited to, the control for noise, vibration, air pollution, fire and explosive hazards, toxic substances, water pollution, and glare.
(Code 2015, § 10.61(2); Ord. of 7-10-2000)

Sec. 10-933. Off-street parking and loading.

Off-street parking and loading facilities shall be provided for the industrial districts in accordance with the regulations set forth in article X, division 6, of this chapter.
(Code 2015, § 10.61(3); Ord. of 7-10-2000)

Sec. 10-934. Landscaping and screening.

Landscaping and screening shall be provided for the industrial districts in accordance with the regulations set forth in article X, division 8, of this chapter.
(Code 2015, § 10.61(4); Ord. of 7-10-2000)

Sec. 10-935. Signs.

Signs in the industrial districts shall comply with the applicable sign regulations set forth in article X, division 7, of this chapter.
(Code 2015, § 10.61(5); Ord. of 7-10-2000)

Sec. 10-936. Performance standards.

Requirements relating to performance standards in the industrial districts are set forth in article X, division 9, of this chapter.
(Code 2015, § 10.61(6); Ord. of 7-10-2000)

Sec. 10-937. Site plan review.

Applications for development approval for properties located in the industrial districts shall be subject to site plan review in accordance with the requirements of article X, division 10, of this chapter.
(Code 2015, § 10.61(7); Ord. of 7-10-2000)

Sec. 10-938. General provisions.

Refer to article X of this chapter for additional standards and exceptions.
(Code 2015, § 10.61(8); Ord. of 7-10-2000)

Sec. 10-939. Planned unit development.

A planned unit development plan may be submitted for consideration by the city council for any property located in the industrial zoning districts. Refer to article XI, division 4, of this chapter for submittal requirements and development standards.
(Code 2015, § 10.61(9); Ord. of 7-10-2000)

Sec. 10-940. Urban design guidelines.

The following shall apply to development proposals and plans submitted after the adoption of the ordinance from which this chapter is derived:

(1) *New development.* Development plans for new development on vacant parcels shall be required to demonstrate conformance to the general design principles and recommendations or general site development guidelines of the Urban Design Framework Manual.

(2) *Existing development.* Development and structures that exist before the adoption of the ordinance from which this chapter is derived shall not be considered nonconforming under this section and shall be permitted to continue and expand in a manner consistent with existing conditions, designs, and approvals granted under this article.

(3) *Redevelopment.*

a. When the principal use of property changes and is accompanied by a change in the ground coverage of existing buildings or structures, development plans shall demonstrate conformance to the general design principles and recommendations and general site development guidelines of the Urban Design Framework Manual. The site plan review committee or planning agency may grant or recommend variances from this article, as appropriate, when it is determined that practical hardships exist because of site conditions or the character of other structures in the vicinity.

b. Redevelopment plans that include demolition of the existing principal structure to an extent of 50 percent or more of the floor area shall be considered new development and shall be subject to subsection (1) of this section.

(Code 2015, § 10.61(10); Ord. of 7-10-2000)

Secs. 10-941—10-968. Reserved.

DIVISION 2. PI PLANNED INDUSTRIAL DISTRICT

Sec. 10-969. Purpose.

The PI district is intended to provide strategic sites for certain light industrial development under exemplary standards that assist in making such developments compatible with property in neighboring residential and commercial districts.

(Code 2015, § 10.62(1))

Sec. 10-970. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the PI district. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

(1) Automobile service stations.

(2) Bottling establishments.

(3) Cabinet and woodworking establishments.

(4) Catalog and mail order houses.

(5) Cold storage.

(6) Commercial printing, publishing, engraving, and reproduction firms.

(7) Computer hardware and software manufacturing or testing.

(8) Design and manufacturing of:

a. Laboratory instruments and associated equipment.

b. Patterns.

c. Signs and advertising display materials.

(9) Dry-cleaning establishments.

(10) Essential service utility structures and facilities.

(11) Fabrication and assembly of:

a. Blank books and loose leaf binders.

b. Radios and televisions.

c. Temperature controls.

(12) Hardware warehousing and distribution operations.

(13) Laundries.

(14) Lumberyards.

(15) Manufacturing of:

a. Art equipment and supplies.

b. Camera and photographic equipment.

c. Clothing.

d. Dental instruments and supplies.

e. Electric lighting and wiring equipment.

f. Electric measuring and testing equipment.

g. Electronic tubes and other components.

h. Jewelry.

i. Medical and surgical instruments and supplies.

j. Office furniture and supplies.

(16) Manufacturing and assembly of:

a. Electrical products and appliances.

b. Hand and edge tools.

c. Luggage, handbags, and other similar items.

d. Optical instruments and lenses.

e. Plumbing fixtures and equipment.

f. Precision fixtures and equipment.

g. Scientific and research instruments and equipment.

h. Sports equipment.

i. Telephone and telegraph technical apparatus.

(17) Manufacturing and fabrication of:

a. Books and bookbinding.

b. Footwear.

c. Plastic extrusion, molding, and fixtures.

(18) Manufacturing and packaging of:

a. Bakery products.

b. Confectionery and related products.

(19) Manufacturing and storage of:

a. Bags, boxes, and paper containers.

b. Ice and ice cream.

(20) Newspaper plants and offices.

(21) Pottery shops.

(22) Trade schools.

(23) Welding supply.

(24) Wholesale business facilities.

(25) Indoor firing ranges, per the restrictions of article X, division 2, of this chapter.

(26) Professional service offices.

(Code 2015, § 10.62(2); Ord. of 10-13-1997; Ord. of 2-9-2004)

Sec. 10-971. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the PI district. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

(1) Day care facilities, when accessory to a permitted or conditional use.

(2) Dwelling units provided for employees, including their families, having duties in connection with any premises requiring them to reside on the premises.

(3) Heliports and freight terminals.

(4) Recycling centers.

(5) Self-service storage facilities.

(6) Unenclosed storage of materials, products, and equipment (accessory or main use), conforming to article X, division 2, of this chapter.

(7) Other manufacturing, processing, storage, wholesale, commercial, office, construction or service uses similar in character to those listed as permitted uses above.

(Code 2015, § 10.62(3))

Sec. 10-972. Minimum lot area.

The minimum lot area in the PI district is 21,780 square feet.

(Code 2015, § 10.62(4); Ord. of 1-14-2008)

Sec. 10-973. Minimum lot frontage.

The minimum lot frontage in the PI district is 100 feet.

(Code 2015, § 10.62(5); Ord. of 1-14-2008)

Sec. 10-974. Yards and setbacks.

The yard and setback requirements for the PI district are as follows:

(1) *Front yard setback.* There shall be provided a 20-foot front yard setback to an impervious parking or storage surface and any portion of a building.

(2) *Side yard setback.* Two side yard setbacks shall be provided and shall be not less than 15 feet from the side property lines to any impervious parking or storage surface or any portion of a building.

(3) *Rear yard setback.* There shall be provided a six-foot rear yard setback to an impervious parking or storage surface and a 20-foot rear yard setback to any portion of a building.

(4) *Transitional yard setback.* A transitional yard of 30 feet shall be provided whenever a PI district abuts a residential district. The transitional yard shall extend the entire length of the abutting a residential district boundary and shall be landscaped per article X, division 8, of this chapter.

(Code 2015, § 10.62(6))

Sec. 10-975. Maximum building height.

There shall be no restriction to the maximum building height in the PI district.

(Code 2015, § 10.62(7))

Sec. 10-976. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on the zoning lot line in the PI district shall not exceed 80 percent.

(Code 2015, § 10.62(8))

Sec. 10-977. Maximum floor area ratio.

The maximum floor area ratio in the PI district shall not exceed 3.0.

(Code 2015, § 10.62(9))

Sec. 10-978. Building design and construction.

All buildings and structures in the PI district, shall meet the following building design and construction standards:

(1) *Exterior wall finish.* All exterior wall finishes on any building or structure shall be of the following materials, or a combination of the following materials:

a. Face brick.

b. Factory fabricated and finished metal framed panel construction, glass, prefinished metal (except for unpainted galvanized iron), or plastic.

c. Natural stone.

d. Specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture.

e. Other material as approved by the planning agency in conformance with the existing design study for the district.

(2) *Additions and accessory buildings.* All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

(Code 2015, § 10.62(10))

Secs. 10-979—10-999. Reserved.

DIVISION 3. M-1 LIGHT INDUSTRIAL DISTRICT

Sec. 10-1000. Purpose.

The M-1 district is intended to provide sites for light manufacturing and light industrial uses under controls that minimize any adverse effects on property in neighboring residential, business or commercial districts.

(Code 2015, § 10.63(1))

Sec. 10-1001. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the M-1 district:

(1) Uses listed as permitted uses in the PI district, except professional service offices.

(2) Adult uses, per article X, division 3, of this chapter.

(3) Automobile, airplane, and farm implement assembly.

(4) Building materials yards and contractors' yards.

(5) Cleaning and dyeing plants.

(6) Concrete mixing and concrete products manufacturing.

(7) Essential service utility structures and facilities.

(8) Light manufacturing industries consisting of the processing, treatment, and packaging of goods and foodstuffs, except alcohol or alcoholic beverages.

(9) Outside storage of material and equipment, per the restrictions of article X, division 2, of this chapter.

(10) Railroad lines and spurs, passenger and freight deposits.

(11) Recyclable material collection (temporary or permanent).

(12) Storage elevators.

(13) Wholesale gasoline and oil storage.

(14) Indoor firing ranges, per the restrictions of article X, division 2, of this chapter.

(Code 2015, § 10.63(2); Ord. of 10-13-1997; Ord. of 4-14-2008)

Sec. 10-1002. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the M-1 district:

(1) Uses listed as conditional uses in the PI district.

(2) Electricity generating facilities, when not determined to be objectionable due to noise, odor, or vibration.

(3) Professional service offices with a floor area greater than 10,000 square feet.

(4) Other wholesale, light manufacturing, construction, or service uses similar in character to those listed above.

(Code 2015, § 10.63(3); Ord. of 4-14-2008)

Sec. 10-1003. Minimum lot area.

The minimum lot area required in the M-1 district is 7,000 square feet.

(Code 2015, § 10.63(4); Ord. of 7-9-2001)

Sec. 10-1004. Minimum lot frontage.

The minimum lot frontage in the M-1 district is 100 feet, to be measured at the front property line.

(Code 2015, § 10.63(5); Ord. of 7-9-2001)

Sec. 10-1005. Yards and setbacks.

The yard and setback requirements for the M-1 district are as follows:

(1) *Front yard setback.* There shall be provided a 15-foot front yard setback to an impervious parking or storage surface and a 30-foot setback to any portion of a building.

(2) *Side yard setback.* There shall be provided a six-foot side yard setback to an impervious parking or storage surface and a 15-foot side yard setback to any portion of a building. Two side yards shall be required.

(3) *Rear yard setback.* No rear yard setback is required.

(4) *Transitional yard setback.* A transitional yard of 30 feet shall be provided whenever a M-1 district, abuts a residential district. The transitional yard shall extend the entire length of the abutting a residential district boundary and shall be landscaped per article X, division 8, of this chapter.

(Code 2015, § 10.63(6))

Sec. 10-1006. Maximum building height.

There shall be no restriction to the maximum building height in the M-1 district.
(Code 2015, § 10.63(7))

Sec. 10-1007. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on the zoning lot in the M-1 district shall not exceed 75 percent.
(Code 2015, § 10.63(8))

Secs. 10-1008—10-1027. Reserved.

DIVISION 4. M-2 HEAVY INDUSTRIAL DISTRICT

Sec. 10-1028. Purpose.

The M-2 district is intended to provide sites for a range of intensive manufacturing and industrial uses under controls that minimize any adverse effects on property in neighboring residential, business, or commercial districts.
(Code 2015, § 10.64(1))

Sec. 10-1029. Permitted uses.

Except as specifically limited herein, the following uses are permitted in the M-2 district: Permitted and conditional uses in the PI and M-1 districts shall be permitted in the M-2 district, except adult uses shall not be allowed, and professional service offices shall be considered a conditional use.
(Code 2015, § 10.64(2))

Sec. 10-1030. Conditional uses.

Except as specifically limited herein, the following uses may be allowed in the M-2 district:

(1) Acid manufacturer.

(2) Automobile service stations.

(3) Cement, lime, gypsum or plaster of Paris manufacturer.

(4) Compost facility.

(5) Distilling of bones, coal, tar, petroleum, refuse, grain, or wood.

(6) Drilling or excavation for, or removal of, oil, gas, or other hydrocarbons or minerals.

(7) Dumps.

(8) Explosive manufacturing or storage.

(9) Fat rendering.

(10) Fertilizer manufacturing.

(11) Garbage, offal, dead animal or fish reduction, dumping or incineration.

(12) Gas, illuminating or heating, manufacturing.

(13) Glue manufacturing.

(14) Gravel pits, gravel and sand washing and grading, rock crushing, washing and grading, quarrying and related uses.

(15) Petroleum refining.

(16) Smelting of ores.

(17) Stockyards or slaughter of animals, except poultry or rabbits.

(18) Tanneries.

(19) Indoor firing ranges, per the restrictions of article X, division 2, of this chapter.

(20) Professional service offices with a floor area greater than 10,000 square feet.

(Code 2015, § 10.64(3))

Sec. 10-1031. Minimum lot area.

The minimum lot area required in the M-2 district is 7,000 square feet.

(Code 2015, § 10.64(4))

Sec. 10-1032. Minimum lot width.

The minimum lot width in the M-2 district is 100 feet, to be measured at the front property line.

(Code 2015, § 10.64(5))

Sec. 10-1033. Yards and setbacks.

The yard and setback requirements for the M-2 district are as follows:

(1) *Front yard setback.* There shall be provided a 15-foot front yard setback to an impervious parking or storage surface and a 30-foot setback to any portion of a building.

(2) *Side yard setback.* There shall be provided a six-foot side yard setback to an impervious parking or storage surface and a 15-foot side yard setback to any portion of a building. Two side yards shall be required.

(3) *Rear yard setback.* No rear yard setback is required.

(4) *Transitional yard setback.* A transitional yard of 30 feet shall be provided whenever a M-2 district abuts a residential district. The transitional yard shall extend the entire length of the abutting a residential district boundary and shall be landscaped per article X, division 8, of this chapter.

(Code 2015, § 10.64(6))

Sec. 10-1034. Maximum building height.

There shall be no restriction to the maximum building height in the M-2 district.

(Code 2015, § 10.64(7))

Sec. 10-1035. Maximum ground coverage.

The sum total of ground area that may be covered by all structures located on the zoning lot in the M-2 district shall not exceed 75 percent.

(Code 2015, § 10.64(8))

Secs. 10-1036—10-1053. Reserved.

ARTICLE VIII. SHORELAND MANAGEMENT

DIVISION 1. SHORELAND OVERLAY DISTRICT

Sec. 10-1054. Purpose.

The Shoreland Overlay District is adopted pursuant to the authorization and policies contained in M.S.A. ch. 103F, Minn. R. pts. 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in M.S.A. ch. 462. The uncontrolled use of shorelands in the city affects the public health, safety and general welfare by contributing to pollution of public waters and impairing the local tax base. Therefore, it is in the best interests of the public health, safety, and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The state has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters, and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources.

(Code 2015, § 10.65(1); Ord. No. O-2022-1114-16, § 10.65(1), 11-14-2022)

Sec. 10-1055. General provisions.

(a) *Jurisdiction.* The provisions of this article apply to the shorelands of the public water bodies as classified in section 10-1058 and to the shorelands of public water bodies greater than ten acres in unincorporated areas in which the city has, by ordinance, extended the application of its zoning regulations as provided by M.S.A. § 462.357, subd 1. Pursuant to Minn. R. pts. 6120.2500 through 6120.3900, no lake, pond, or flowage less than ten acres in size in municipalities or 25 acres in size

in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this article.

(b) *Enforcement.* The city is responsible for the administration and enforcement of this article. Any violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this article can occur regardless of whether or not a permit is required for a regulated activity listed in section 10-1057.

(c) *Abrogation and greater restrictions.* It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

(d) *Notifications to the department of natural resources.*

(1) All amendments to this division must be submitted to the department of natural resources for review and approval for compliance with the statewide shoreland management rules. The city will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.

(2) All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(3) All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(4) Any request to change the shoreland management classification of public waters within city must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data as required by Minn. R. pt. 6120.3000, subpt. 4.

(5) Any request to reduce the boundaries of shorelands of public waters within city must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

(Code 2015, § 10.65(2); Ord. No. O-2022-1114-16, § 10.65(2), 11-14-2022)

Sec. 10-1056. Definitions.

Unless specifically defined below, words or phrases used in this division shall be interpreted to give them the same meaning they have in common usage and to give this article its most reasonable application. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure or facility means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks. Examples include swimming pools, saunas, detached garages, and storage sheds.

Animal feedlot means a facility as defined by Minn. R. pt. 7020.0300.

Bluff means a topographic feature such as a hill, cliff, or embankment having the following characteristics:

(1) Part or all of the feature is located in a shoreland area.

(2) The slope must drain toward the waterbody.

(3) The slope rises at least 25 feet above the ordinary high water level.

(4) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

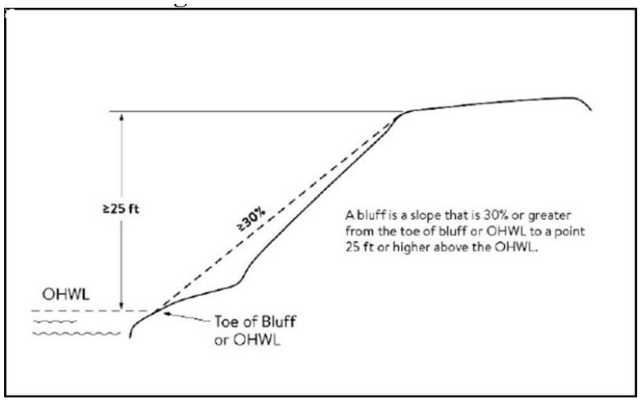
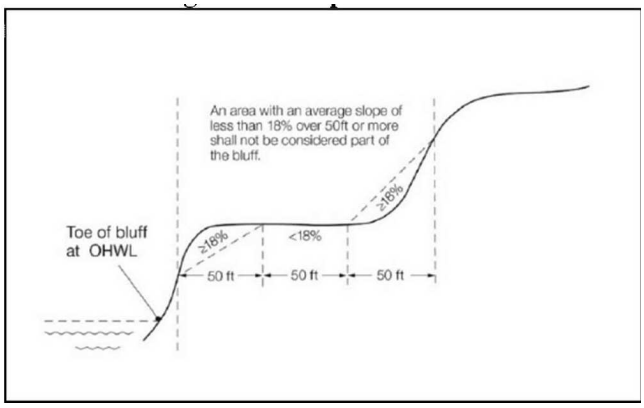
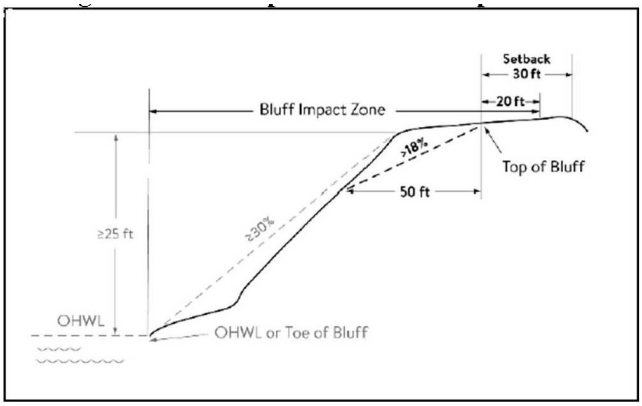


Figure 2. Exception to Bluff



Bluff impact zone means a bluff and land located within 20 feet of the top of a bluff. See Figure 3.

Figure 3. Bluff Impact Zone and Top of Bluff



Bluff, toe of, means the lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

Bluff, top of, means for the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent. See Figure 3.

Boathouse means a facility as defined by M.S.A. § 103G.245.

Buffer means a vegetative feature as defined by M.S.A. § 103F.48.

Building line means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

Commercial planned unit developments means developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

Commercial use means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Commissioner means the commissioner of the department of natural resources.

Conditional use means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

Controlled access lot means a lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.

Deck means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached, or functionally related to a principal use or site and at any point extending more than three feet above ground.

Duplex, triplex, and *quad* mean a dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling site means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling unit means any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Expansion means any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.

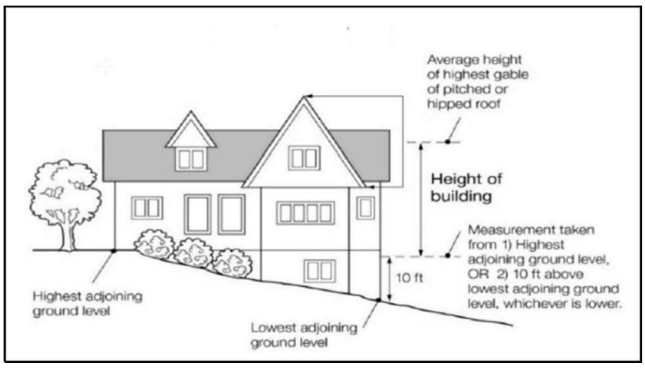
Extractive use means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under M.S.A. §§ 93.44 through 93.51.

Forest land conversion means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Guest cottage means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Height of building means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof (see Figure 4).

Figure 4. Height of Building



Impervious surface means a constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.

Improvement means making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what previously existed, but does not include an expansion, enlargement, or intensification.

Industrial use means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Intensive vegetation clearing means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

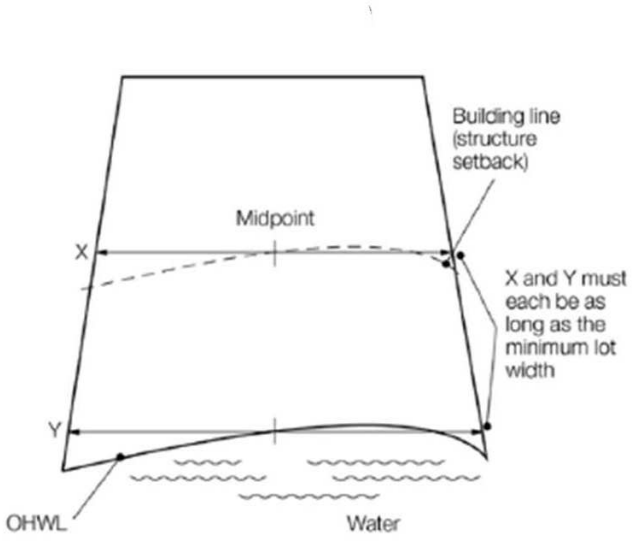
Lot means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by the description for the purpose of sale, lease, or separation.

Lot width means the minimum distance between:

(1) Side lot lines measured at the midpoint of the building line; and

(2) Side lot lines at the ordinary high water level, if applicable (see Figure 5).

Figure 5. Lot Width



Maintenance and repair means upkeep or preservation of an existing structure or accessory structure or facility against normal wear and tear or degradation over time that does not change exterior dimensions. Examples include the rehabilitation or replacement of windows, siding, a roof, or exterior finishes such as paint or stain.

Metallic minerals and peat has the meaning given under M.S.A. §§ 93.44 through 93.51.

Nonconformity means any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.

Ordinary high water level means the boundary of public waters and wetlands and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Planned unit development means a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Public waters means any water as defined in M.S.A. § 103G.005, subds. 15, 15a.

Replacement and restoration means reconstruction of part or all of an existing structure or accessory structure or facility that closely matches or replicates the preexisting structure or facility.

Residential planned unit development means a use where the nature of residency is nontransient, and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Resort has the meaning in M.S.A. § 103F.227.

Semipublic use means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

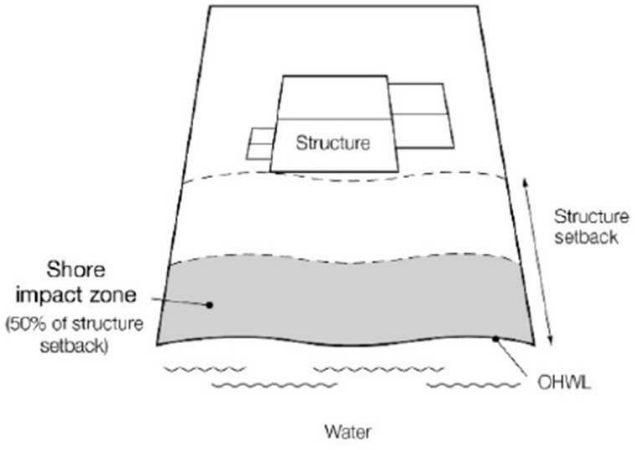
Setback means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

Sewage treatment system has the meaning given under Minn. R. pt. 7080.1100, subpt. 82.

Sewer system means pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Shore impact zone means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback (see Figure 6).

Figure 6. Shore Impact Zone



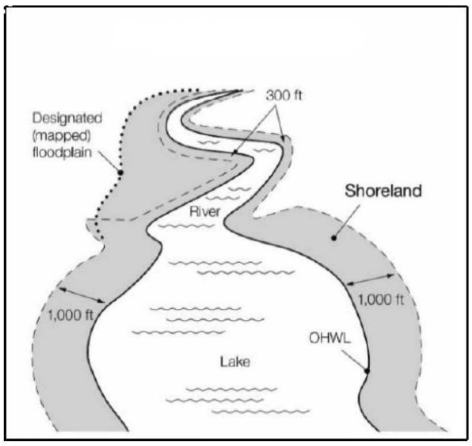
Shore recreation facilities means swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

Shoreland means land located within the following distances from public waters:

(1) 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and

(2) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater (see Figure 7).

Figure 7. Definition of Shoreland



Significant historic site means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the state register of historic sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S.A. § 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state archaeologist or the director of the state historical society. All unplatted cemeteries are automatically considered to be significant historic sites.

Steep slope means areas adjacent to protected water having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

Structure means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subdivision means land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

Suitability analysis means an evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness;

water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

Variance means the same as defined in M.S.A. § 462.357, subd. 6(2).

Water-dependent use means the use of land for commercial, industrial, public, or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of uses typically found in shoreland areas.

Water-oriented accessory structure or facility means a small, aboveground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, patios, and detached decks. Boathouses and boat storage structures given the meaning under M.S.A. § 103G.245 are not a water-oriented accessory structures.

Wetland has the meaning given under Minn. R. pt. 8420.0111.
(Code 2015, § 10.65(3); Ord. No. O-2022-1114-16, § 10.65(3), 11-14-2022)

Sec. 10-1057. Applicability.

The use of any shoreland of public waters, the size and shape of lots, the use, size, type, and location of structures on lots, the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area, the cutting of shoreland vegetation, and the subdivision of land must be in full compliance with these regulations.
(Code 2015, § 10.66(1); Ord. No. O-2022-1114-16, § 10.65(1), 11-14-2022)

Sec. 10-1058. Designation.

(a) The provisions of this district apply to the shorelands of the public water bodies as classified below. Pursuant to Minn. R. pts. 6120.2500 through 6120.3900, a lake, pond, or flowage less than ten acres in size is not required to be regulated by these shoreland provisions. A body of water created by a private user where there was no previous shoreland may, at the discretion of the city, be considered exempt from these shoreland regulations.

(b) The public waters of the city, subject to the shoreland regulations, have been classified below, consistent with the criteria found in Minn. R. pt. 6120.3300, and the Protected Waters Inventory Map for Blue Earth County, Minnesota.

Basins With Shoreland Classifications

Basin Name	*Basin Lake ID*	*Shoreland Classification*
Wita	07007700	Natural Environment
Unnamed	07007100	Natural Environment

Watercourse Name	*Kittle Number*	*From (Township-Range-Section)*	*To (Township-Range-Section)*	*Shoreland Classification*
Minnesota River	M-055	109-27-36	109-27-36	Transition
Minnesota River	M-055	108-27-01	108-27-14	Agriculture
Blue Earth River	M-055-076	108-27-14	108-27-23	Agriculture
Unnamed to Minnesota	M-055-075	108-26-09	108-26-06	Tributary
Unnamed to Le Sueur River	M-055-076-001-011	108-26-16	108-26-21	Tributary
Unnamed stream	M-055-073	109-26-31	109-26-32	Tributary

(Code 2015, § 10.66(2); Ord. No. O-2022-1114-16, § 10.65(2), 11-14-2022)

Sec. 10-1059. Permitted and conditional uses.

(a) *Generally.* The permitted and conditional uses of the underlying zoning district apply within the Shoreland Overlay District. Additional permitted uses and standards are also contained within subsection (b) of this section. The following criteria must be considered for any permitted or conditional use:

(1) Preservation of natural areas.

(2) Present ownership and development of shoreland areas.

(3) Shoreland soil types and their engineering capabilities.

(4) Topographic characteristics.

(5) Vegetative cover.

(6) In-water physical characteristics, values, and constraints.

(7) Recreational use of the surface water.

(8) Road and service center accessibility.

(9) Socioeconomic development needs and plans as they involve water and related land resources.

(10) The land requirements of industry, which, by its nature, requires location in shoreland areas.

(11) The necessity to preserve and restore certain areas having significant historical or ecological value.

(b) *Nonconformities.*

(1) All legally established nonconformities as of the effective date of the ordinance from which this chapter is derived may continue but will be managed according to M.S.A. § 462.357, subd. 1e, and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.

(2) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, lowest floor elevations, and other requirements of this article. Any deviation from these requirements must be authorized by a variance.

(c) *Use standards.* The following use standards apply to commercial, industrial, public, and semi-public, agricultural, forestry, and extractive uses and mining of metallic minerals and peat:

(1) *Standards for water-oriented commercial, industrial, public and semi-public uses.* Surface water-oriented commercial, industrial, public, and semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

a. In addition to meeting impervious coverage limits, setbacks and other zoning standards in this Code, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

b. Uses that require short-term watercraft mooring for patrons must centralize these facilities, design them to avoid obstructions of navigation, and to be the minimum size necessary to meet the need.

c. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.

2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. The signs must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information, such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters.

d. Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

e. Industrial uses are not permitted in the shoreland of NE lakes. Industrial uses in all other shoreland require a conditional use permit.

(2) *Standards for non-water-oriented commercial, industrial, public and semi-public uses.* Nonresidential uses without water-oriented needs must be located on lots or parcels without public waters frontage or, if located on lots or parcels with public waters frontage, must either

be set back twice the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(3) *Agriculture use standards.* General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level. Animal feedlots are prohibited.

(4) *Forest management standards.* The harvesting of timber and associated reforestation must be conducted consistent with the provisions of Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.

(5) *Extractive use standards.*

a. Extractive uses require a conditional use permit.

b. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

c. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

(6) *Mining of metallic minerals and peat.* Mining of metallic minerals and peat, as defined in M.S.A. §§ 93.44 through 93.51, are a permitted use provided the provisions of M.S.A. §§ 93.44 through 93.51, are satisfied.

(7) *Residential uses.*

a. Residential subdivisions with dwelling unit densities exceeding those in Table 12-1 are only allowed if designed and approved as a planned unit development. Only land above the ordinary high water level of public waters can be used to meet lot area standards. The structures shall have a minimum setback of 150 feet from the ordinary high water level of public waters. Lot width standards must be met at both the ordinary high water level and at the building line.

b. Lots intended as private controlled accesses to public waters, or as recreation areas for use by owners of nonriparian lots within subdivisions, are prohibited.

c. Residential subdivisions of duplexes, triplexes, and quads are conditional uses on natural environment lakes and must also meet the following standards:

1. Each building must be set back at least 200 feet from the ordinary high water level.
2. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building.
3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.
4. No more than 25 percent of a lake's shoreline can be duplex, triplex, or quad.

(Code 2015, § 10.66(3); Ord. No. O-2022-1114-16, § 10.65(3), 11-14-2022)

Sec. 10-1060. Bulk and setback regulations.

The bulk, height, and setback regulations of the underlying zoning district apply unless otherwise modified by this section. Areas protected by the floodwall, existing structures, and existing lots of recorded prior to December 31, 2022, shall be exempted for the provisions of this article. Table 12-1 establishes bulk and setback regulations for the Shoreland Overlay District. Additional land development restrictions are in section 10-1061.

Table 12-1. Shoreland Overlay District Bulk and Setback Regulations

Bulk and Setback Regulations	*Shoreland Overlay District*
Bulk requirements	
Minimum lot width	Single-family dwelling: 125 ft.
	Two-family dwelling: 225 ft.
	Multifamily dwelling, 3 units: 325 ft.
	Multifamily dwelling, 4 units: 425 ft.
Minimum lot area	Single-family dwelling: 40,000 sq. ft.
	Two-family dwelling: 70,000 sq. ft.
	Multifamily dwelling, 3 units: 100,000 sq. ft.
	Multifamily dwelling, 4 units: 130,000 sq. ft.
Maximum building height [1]	35 ft.
Maximum impervious surface	25 percent
Setback requirements	
Setback from ordinary high water level [2]	150 ft.
Setback from top of bluff	30 ft.
Setback for no sewer or sewage treatment systems	150 ft.
Setback from unplatted cemetery	50 ft.
Setback from federal, state or county highway right-of-way	50 ft.

Bulk and Setback Regulations	*Shoreland Overlay District*
Setback from town road, public street or other roads or streets not classified right-of-way and parking lots, except public nonmotorized trails	20 ft.

Footnotes table 12-1:

[1] Nonresidential agricultural structures are exempt from the height restriction.

[2] One water-oriented accessory structure designed in accordance with this section may be set back a minimum of ten feet from the ordinary high water level.

(Code 2015, § 10.66(4); Ord. No. O-2022-1114-16, § 10.65(4), 11-14-2022)

Sec. 10-1061. Land development restrictions.

(a) *Placement of structures on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where principal buildings exist on the adjoining lots on both sides of a proposed principal building site, principal building setbacks may be altered, without a variance, to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone and is a minimum of 25 feet from the ordinary high water level.

(b) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, may not be placed within bluff impact zones.

(c) *Steep slopes.* The zoning administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(d) *Setbacks and screening for uses without water-oriented needs.* Nonresidential uses without water-oriented needs must be located on lots or parcels without public waters frontage or, if located on lots or parcels with public waters frontage, must either be set back twice the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(e) *High water elevations.* Structures must be placed in high water elevations in accordance with the floodplain regulations. Where these elevations are not known, the lowest floor, including basement, must be placed or floodproofed at an elevation determined using the following methodology:

(1) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher.

(2) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this section if:

a. The structure is constructed of flood-resistant materials to the elevation;

b. Electrical and mechanical equipment is placed above the elevation; and

c. If long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(f) *Design criteria for structures.*

(1) *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure setback if this water-oriented accessory structure complies with the following:

a. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 150 square feet. Detached decks must not exceed four feet above grade at any point.

b. The setback of the structure or facility from the ordinary high water level must be at least ten feet and it must not be located in the bluff impact zone.

c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer, leaf-on conditions.

d. The roof may be used as a deck with safety rails but must not be enclosed or used as a storage area.

e. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

(2) *Stairways, lifts and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments.

b. Landings for stairways and lifts on residential lots must not exceed 24 square feet in area. Landings larger than 24 square feet may be used for commercial properties, public open space recreational properties, and planned unit developments.

c. Canopies or roofs are not allowed on stairways, lifts, or landings.

d. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water, assuming summer, leaf-on conditions, whenever practical.

f. Facilities, such as ramps, lifts, or mobility paths, for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards comply with the requirements above, in addition to the requirements of Minn. R. ch. 1341.

(3) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public repository.

(4) *Water supply and sewage treatment.*

a. *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and the state pollution control agency.

b. *Sewage treatment.* Any premises used for human occupancy must be connected to a publicly owned sewer system, where available, or comply with Minn. R. chs. 7080 and 7081.

(Code 2015, § 10.66(5); Ord. No. O-2022-1114-16, § 10.65(5), 11-14-2022)

Sec. 10-1062. Subdivision/platting provisions.

(a) *Purpose.* The purpose of this section is to ensure that new development minimizes impacts to shoreland resources and is safe and functional.

(b) *Land suitability.* Each lot created through subdivision, including planned unit developments authorized under division 7 of this article, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

(c) *Consistency with other controls.* Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

(Code 2015, § 10.66(6); Ord. No. O-2022-1114-16, § 10.65(6), 11-14-2022)

Sec. 10-1063. Shoreland alterations.

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

(1) *Vegetation alterations.* Vegetation alteration necessary for the construction of structures and sewage treatment systems, and the construction of roads and parking areas regulated by this section are exempt from the vegetation alteration standards that follow. Removal or alteration of vegetation, except for agricultural and forest management uses, is allowed subject to the following standards:

a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is prohibited. Intensive vegetation clearing for forest land conversion to another

use outside of these areas is permitted as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach, and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

1. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.

2. Along rivers, existing shading of water surfaces is preserved.

3. The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.

c. Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.

d. Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography, or both.

(2) *Topographic alterations and grading and filling.* Grading and filling and excavations necessary for the construction of structures, sewage treatment systems and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways. A grading and filling permit will be required for the movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones or the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

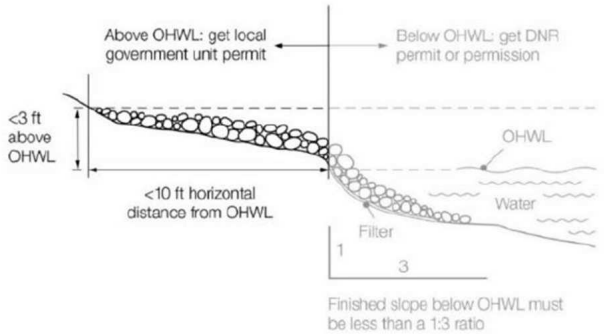
a. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:

1. The finished slope does not exceed three feet horizontal to one foot vertical.

2. The landward extent of the riprap is within ten feet of the ordinary high water level.

3. The height of the riprap above the ordinary high water level does not exceed three feet (see Figure 10).

Figure 10. Riprap Guidelines



b. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals:

   1. Grading or filling in any Type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:

      (i) Sediment and pollutant trapping and retention.

      (ii) Storage of surface runoff to prevent or reduce flood damage.

      (iii) Fish and wildlife habitat.

      (iv) Recreational use.

      (v) Shoreline or bank stabilization.

      (vi) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals and others.

c. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies, such as a watershed district, the state department of natural resources, or the United States Army Corps of Engineers. The applicant will be so advised, as follows:

   1. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

   2. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

   3. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

4. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
5. Fill or excavated material must not be placed in a manner that creates an unstable slope.
6. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.
7. Fill or excavated material must not be placed in bluff impact zones.
8. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under M.S.A. ch. 103G.
9. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
10. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
11. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minn. R. ch. 7082.0700, subpt. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

(3) *Connections to public waters.* Excavations, where the intended purpose is connection to public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner of natural resources has approved the proposed connection to public waters.

(Code 2015, § 10.66(7); Ord. No. O-2022-1114-16, § 10.65(7), 11-14-2022)

Sec. 10-1064. Placement and design of roads, driveways and parking areas.

(a) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(b) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(c) Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this section are met. For private facilities, the grading and filling provisions of this section must be met.
(Code 2015, § 10.66(8); Ord. No. O-2022-1114-16, § 10.66(8), 11-14-2022)

Secs. 10-1065—10-1114. Reserved.

DIVISION 2. PLANNED UNIT DEVELOPMENTS (PUDS)

Sec. 10-1115. Purpose.

It is the purpose of this division to protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high-density residential and commercial uses.
(Code 2015, § 10.67(1); Ord. No. O-2022-1114-16, § 10.67(1), 11-14-2022)

Sec. 10-1116. Types of PUDs permissible.

Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of table 12-1 is allowed if the standards in this section are met.
(Code 2015, § 10.67(2); Ord. No. O-2022-1114-16, § 10.67(2), 11-14-2022)

Sec. 10-1117. Processing.

Planned unit developments in the shoreland district must be processed as a conditional use and comply with the provisions of this section in addition to those standards outlined elsewhere in the zoning and subdivision regulations. When there is a conflict in requirements, the more stringent of the requirements shall be applied. An expansion to an existing commercial PUD involving six or less new dwelling units or sites since the date the ordinance from which this chapter is derived was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in section 10-1119. Approval cannot occur until all applicable environmental reviews are complete.
(Code 2015, § 10.67(3); Ord. No. O-2022-1114-16, § 10.67(3), 11-14-2022)

Sec. 10-1118. Application.

The applicant for a PUD must submit the following documents prior to final action on the application request:

(1) Site plan or plat showing:

a. Locations of property boundaries.

b. Surface water features.

c. Existing and proposed structures and other facilities.

d. Land alterations.

e. Sewage treatment and water supply systems (where public systems will not be provided).

f. Topographic contours at ten-foot intervals or less.

g. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).

(2) A property owner's association agreement (for residential PUDs) with mandatory membership, and consistent with section 10-1120.

(3) Deed restrictions, covenants, permanent easements, or other instruments that:

a. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and

b. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in section 10-1120.

(4) A master plan/site plan describing the project and showing floor plans for all commercial structures.

(5) Additional documents necessary to explain how the PUD will be designed and will function.
(Code 2015, § 10.67(4); Ord. No. O-2022-1114-16, § 10.67(4), 11-14-2022)

Sec. 10-1119. Density determination.

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures:

(1) *Step 1.* Identify density analysis tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

Waterbody Classification	*No Sewer (ft.)*	*Sewer (ft.)*
Natural environment lakes	400	320
All rivers	300	300

(2) *Step 2.* Calculate suitable area for development. Calculate the suitable area within each tier by excluding all road rights-of-way or easements, wetlands, bluffs, or land below the ordinary high water level of public waters.

(3) *Step 3.* Determine base density.

a. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width or river frontage by the minimum single residential lot width.

b. For commercial PUDs:

1. Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.

(i) For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.

(ii) For dwelling sites (campgrounds), determine the area of each dwelling site as follows:

A. For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 square feet.

B. For recreational vehicles, campers, or tents, use 400 square feet.

2. Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in subsection (2) of this section:

Inside Living Floor Area or Dwelling Site Area (sq. ft.)	*Natural Environment Lakes*
≤200	0.010
300	0.012
400	0.014
500	0.016
600	0.019
700	0.021
800	0.023
900	0.025
1,000	0.027
1,100	0.029
1,200	0.032
1,300	0.034
1,400	0.036
≥1,500	0.038

3. Multiply the suitable area within each tier determined in this section by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

4. Divide the total floor area or dwelling site area for each tier calculated in subsection (3)b.3 of this section by the average inside living floor area for dwelling units or dwelling site area determined in subsection (3)b.2 of this section. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.

c. Allowable densities may be transferred from any tier to any other tier further from the water body but must not be transferred to any tier closer to the waterbody.

d. All PUDs with densities at or below the base density must meet the design standards in section 10-1120.

(4) *Step 4.* Determine if the site can accommodate increased density:

a. The following increases to the dwelling unit or dwelling site base densities determined in this section are allowed if the design criteria in this section are satisfied as well as the standards in subsection (4)b of this section:

Shoreland Tier	*Maximum Density Increases Within Each Tier (percent)*
1st	50
2nd	100
3rd	200
4th	200
5th	200

b. Structure setbacks from the ordinary high water level:

1. Are increased to at least 50 percent greater than the minimum setback; or

2. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

(Code 2015, § 10.67(5); Ord. No. O-2022-1114-16, § 10.67(5), 11-14-2022)

Sec. 10-1120. Design criteria.

All PUDs must meet the following design criteria:

(1) *General design standards.*

a. All residential planned unit developments must contain at least five dwelling units or sites.

b. On-site water supply and sewage treatment systems must be centralized and meet the standards in section 10-1061(f)(4). Sewage treatment systems must meet the setback standards of table 12-1.

c. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.

d. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Table 12-1.

e. Shore recreation facilities:

1. Must be centralized and located in areas suitable for them based on a suitability analysis.

2. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).

3. Launching ramp facilities, including a small dock for loading, and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

f. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

g. Accessory structures and facilities, except water-oriented accessory structures, must meet the required structure setback, and must be centralized.

h. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in section 10-1061(f)(1) and are centralized.

(2) *Open space requirements.*

a. Open space must constitute at least 50 percent of the total project area and must include:

1. Areas with physical characteristics unsuitable for development in their natural state.

2. Areas containing significant historic sites or unplatted cemeteries.

3. Portions of the shore impact zone preserved in its natural or existing state as follows:

(i) For existing residential PUDs, at least 50 percent of the shore impact zone.

(ii) For new residential PUDs, at least 70 percent of the shore impact zone.

(iii) For all commercial PUDs, at least 50 percent of the shore impact zone.

b. Open space may include:

1. Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.

2. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

3. Nonpublic water wetlands.

c. Open space shall not include:

1. Dwelling sites or lots, unless owned in common by an owner's association.

2. Dwelling units or structures, except water-oriented accessory structures or facilities.

3. Road rights-of-way or land covered by road surfaces and parking areas.

4. Land below the ordinary high water level (OHWL) of public waters.

5. Commercial facilities or uses.

(3) *Open space maintenance and administration requirements.*

a. *Open space preservation.* The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved, and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:

1. Commercial uses (for residential PUDs).
2. Vegetation and topographic alterations other than routine maintenance.
3. Construction of additional buildings or storage of vehicles and other materials.
4. Uncontrolled beaching of watercraft.

b. *Development organization and functioning.* Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owner's association with the following features:

1. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner.
2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites.
3. Assessments must be adjustable to accommodate changing conditions.
4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

(4) *Erosion control and stormwater management.*

a. Erosion control plans must be developed and must be consistent with the provisions of section 10-1063(2). Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

b. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff.

1. For residential PUDs, impervious surface for the entire project site must not exceed 25 percent.
2. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area.

(Code 2015, § 10.67(6); Ord. No. O-2022-1114-16, § 10.67(6), 11-14-2022)

Sec. 10-1121. Conversions.

Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all the following standards are met:

(1) Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified.

(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and bluff impact zone deficiencies must be evaluated, and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

a. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

b. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and

c. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(4) Existing dwelling unit or dwelling site densities that exceed standards in section 10-1119 may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

(Code 2015, § 10.67(7); Ord. No. O-2022-1114-16, § 10.67(7), 11-14-2022)

Secs. 10-1122—10-1150. Reserved.

DIVISION 3. STORMWATER MANAGEMENT

Sec. 10-1151. Standards.

The following stormwater management standards apply:

(1) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.

(2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible, and facilities or methods used to retain sediment on the site.

(3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices,

dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(4) When constructed facilities are used for stormwater management, documentation must be provided if they are designed and installed under the supervision of a licensed engineer.

(5) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge unless an alternative plan has been approved by the department of natural resources.

(Code 2015, § 10.68(1); Ord. No. O-2022-1114-16, § 10.68, 11-14-2022)

Secs. 10-1152—10-1180. Reserved.

ARTICLE IX. FLOODPLAIN MANAGEMENT

DIVISION 1. GENERALLY

Secs. 10-1181—10-1208. Reserved.

DIVISION 2. FLOODPLAIN DISTRICT

Sec. 10-1209. Statutory authorization.

The ordinance from which this article is derived is adopted pursuant to the authorization and policies contained in M.S.A. ch. 103F; Minn. R. pts. 6120.5000 through 6120.6200; the rules and regulations of the National Flood Insurance Program in 44 CFR 59 through 78; and the planning and zoning enabling legislation in M.S.A. ch. 462.

(Code 2015, § 10.71(1); Ord. No. O-2022-0912-10, § 10.71(1), 9-12-2022; Ord. No. O-2023-1211-6, § 10.71(1), 12-11-2023)

Sec. 10-1210. Purpose.

(a) This article regulates development in the flood hazard areas of the city. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this article to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(b) The ordinance from which this article is derived is adopted in the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

(c) The ordinance from which this article is derived is adopted to maintain eligibility in the National Flood Insurance Program.

(d) This article is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.
(Code 2015, § 10.71(2); Ord. of 9-5-2000; Ord. No. O-2022-0912-10, § 10.71(2), 9-12-2022; Ord. No. O-2023-1211-6, § 10.71(2), 12-11-2023)

Sec. 10-1211. Abrogation and greater restrictions.

It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this article take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.
(Code 2015, § 10.71(3); Ord. No. O-2022-0912-10, § 10.71(3), 9-12-2022; Ord. No. O-2023-1211-6, § 10.71(3), 12-11-2023)

Sec. 10-1212. Warning and disclaimer of liability.

This article does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This article does not create liability on the part of the city or its officers or employees for any flood damages that result from reliance on this article, or any administrative decision lawfully made hereunder.
(Code 2015, § 10.71(4); Ord. No. O-2022-0912-10, § 10.71(4), 9-12-2022; Ord. No. O-2023-1211-6, § 10.71(4), 12-11-2023)

Sec. 10-1213. Definitions.

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

Accessory structure means a structure, as defined in this chapter, that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year. The term "base flood" is synonymous with the term "regional flood" used in Minn. R. pt. 6120.5000.

Base flood elevation (BFE) means the elevation of the base flood, regional flood, or one percent annual chance flood. The term "base flood elevation" is used in the flood insurance study.

Basement means any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Building. See *Structure.*

Channel means a natural or artificial depression of perceptible extent, with definite beds and banks to confine and conduct flowing water either continuously or periodically.

Conditional use means a land use or development that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions, as detailed in this chapter, exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

Critical facilities means buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in ASCE 24-14, as amended. Examples include health care facilities, facilities required for emergency response, power generating stations, communications towers, or electrical substations.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Equal degree of encroachment means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FEMA means Federal Emergency Management Agency.

Farm fence means an open type of fence of posts and horizontally run wire, further specified in M.S.A. § 344.02, subd. 1(a) through (d).

Flood means a temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.

Flood fringe means the portion of the one percent annual chance floodplain located outside of the floodway.

Flood insurance rate map (FIRM) means an official map on which the Federal Insurance Administrator has delineated both the special flood 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 insurance study (FIS) means the study referenced in section 10-1246, which is an examination, evaluation, and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Floodplain means the beds, channel and the areas adjoining a wetland, lake or watercourse, or other source which have been or hereafter may be inundated by the base flood.

Floodproofing means a combination of structural and nonstructural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.

Light-duty truck means any motor vehicle that has all three of the following:

(1) 8,500 pounds gross vehicle weight rating or less; and

(2) Vehicle curb weight of 6,000 pounds or less; and

(3) Basic vehicle frontal area less than 45 square feet.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

New construction means structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation and includes any subsequent improvements to such structures.

Principal structure means the main building or other structure on a lot that is utilized for the property's principal use.

Reach means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational vehicle means a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light-duty truck and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Those vehicles not meeting this definition shall be considered a structure for the purposes of this article. The term "recreational vehicle" is synonymous with the term "travel trailer/travel vehicle."

Regulatory flood protection elevation (RFPE) means an elevation that is one foot above the elevation of the base flood, plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the floodway data tables, found in the flood insurance study.

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Stage increase means any increase in the water surface elevation during the one percent annual chance flood caused by encroachments on the floodplain.

Start of construction means includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The term "actual start" means 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 term "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Recreational vehicles not considered travel ready, as detailed in section 10-1326(2), shall also be considered a structure for the purposes of this article.

Subdivision means land that has been divided for the purpose of sale, rent, or lease, including planned unit developments.

Substantial damage means 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 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure 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. The term "historic structure" is defined in 44 CFR 59.1.

Variance means the same as defined in 44 CFR 59.1 and M.S.A. § 462.357, subd. 6(2).

Watercourse means a channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term "watercourse" applies to either natural or artificially constructed channels.

(Code 2015, § 10.72; Ord. No. O-2022-0912-10,§ 10.72, 9-12-2022; Ord. No. O-2023-1211-6, § 10.72, 12-11-2023)

Secs. 10-1214—10-1244. Reserved.

DIVISION 3. JURISDICTION AND DISTRICTS

Sec. 10-1245. Lands to which this article applies.

This article applies to all lands within the jurisdiction of the city within the boundaries of the floodway, flood fringe and general floodplain districts.

(1) The floodway, flood fringe or general floodplain districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, the more restrictive standards will apply.

(2) Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions (as illustrated in Figure 1), the base flood elevation (BFE) shall be the governing factor in locating the outer boundaries of the one percent annual chance floodplain.

Figure 1. The mapped floodplain may not always align with on-the-ground countour elevations

(3) 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.

(Code 2015, § 10.73(1); Ord. No. O-2022-0912-10, § 10.73(1), 9-12-2022; Ord. No. O-2023-1211-6, § 10.73(1), 12-11-2023)

Sec. 10-1246. Incorporation of maps by reference.

(a) The following maps, together with all attached material, are hereby adopted by reference and declared to be a part of the official zoning map and this article:

(1) Flood insurance studies.

(2) Flood Insurance Study for Blue Earth County and Incorporated Areas, dated February 22, 2024.

(3) Flood Insurance Study for Nicollet County and Incorporated Areas, dated October 13, 2022.

(4) Flood Insurance Study for Le Sueur County and Incorporated Areas, dated October 13, 2022.

(5) Preliminary Flood Insurance Study for Le Sueur County and Incorporated Areas, dated July 14, 2022.

(6) Flood insurance rate map panels enumerated below:

a. Blue Earth County panel 27013C0084F, dated February 22, 2024.

b. Blue Earth County panel 27013C0091F, dated February 22, 2024.

c. Blue Earth County panel 27013C0092F, dated February 22, 2024.

d. Blue Earth County panel 27013C0093F, dated February 22, 2024.

e. Blue Earth County panel 27013C0094F, dated February 22, 2024.

f. Blue Earth County panel 27013C0105F, dated February 22, 2024.

g. Blue Earth County panel 27013C0110F, dated February 22, 2024.

h. Blue Earth County panel 27013C0114F, dated February 22, 2024.

i. Blue Earth County panel 27013C0115F, dated February 22, 2024.

j. Blue Earth County panel 27013C0116F, dated February 22, 2024.

k. Blue Earth County panel 27013C0117F, dated February 22, 2024.

l. Blue Earth County panel 27013C0118F, dated February 22, 2024.

m. Nicollet County panel 27103C0410H, dated October 13, 2022.

n. Le Sueur County panel 27079C0360D, dated July 21, 1999.

o. Le Sueur County preliminary panel 27079C0360E, dated July 14, 2022.

(b) These materials are on file at the city (Intergovernmental Center, 10 Civic Center Plaza, Mankato, MN 56001) for public inspection.
(Code 2015, § 10.73(2); Ord. No. O-2022-0912-10, § 10.73(2), 9-12-2022; Ord. No. O-2023-1211-6, § 10.73(2), 12-11-2023)

Sec. 10-1247. Districts.

(a) *Floodway district.* Those areas within Zones AE delineated within floodway areas as shown on the flood insurance rate maps referenced in section 10-1246.

(b) *Flood fringe district.* Those areas within Zones AE that have a delineated floodway, but are located outside of it, as shown on the flood insurance rate maps referenced in section 10-1246.

(c) *General floodplain district.* Those areas within Zones AE areas that do not have a floodway delineated as shown on the flood insurance rate maps referenced in section 10-1246. This district also includes any additional area encompassed by the regulatory floodplain.
(Code 2015, § 10.73(3); Ord. No. O-2022-0912-10, § 10.73(3), 9-12-2022; Ord. No. O-2023-1211-6, § 10.73(3), 12-11-2023)

Sec. 10-1248. Annexations.

The flood insurance rate map panels referenced in section 10-1246 may include floodplain areas which lie outside of the corporate boundaries of the city at the time of adoption of this division. If any of these floodplain land areas are annexed into the city after the date of adoption of the ordinance from which this chapter is derived, the newly annexed floodplain lands will be subject to the provisions of this article immediately upon the date of annexation. Annexations into panels not referenced in section 10-1246 require ordinance amendment in accordance with division 10 of this article.
(Code 2015, § 10.73(4); Ord. No. O-2022-0912-10, § 10.73(4), 9-12-2022; Ord. No. O-2023-1211-6, § 10.73(4), 12-11-2023)

Secs. 10-1249—10-1269. Reserved.

DIVISION 4. REQUIREMENTS AND ESTABLISHMENT OF ALL FLOODPLAIN DISTRICTS

Sec. 10-1270. Permit required.

A permit must be obtained from the zoning administrator to verify compliance with all applicable standards outlined in this article prior to the following uses or activities:

(1) The erection, addition, modification, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in section 10-1377(3).

(2) The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. Farm fences, as defined in section 10-1213, are not considered to be an obstruction and, as such, do not require a permit.

(3) The change or expansion 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, utilities, on-site sewage treatment systems, or other service facilities.

(6) The storage of materials or equipment, in conformance with section 10-1272(b).

(7) Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts, and bridges). A local permit is not required if a public waters work permit has been obtained from the department of natural resources unless a significant area above the ordinary high water level is also to be disturbed.

(8) Any other type of development, as defined in section 10-1213.

(Code 2015, § 10.74(1); Ord. No. O-2022-0912-10, § 10.74(1), 9-12-2022; Ord. No. O-2023-1211-6, § 10.74(1), 12-11-2023)

Sec. 10-1271. No permit required.

Certain uses or activities may be exempt from obtaining a permit, such as planting a garden, farming, or other obviously insignificant activities such as putting up a mailbox or flagpole. The continuation of existing uses, when the associated activities do not encroach further on the regulatory floodplain or trigger associated standards in this article, do not require a permit.

(Code 2015, § 10.74(2); Ord. No. O-2022-0912-10, § 10.74(2), 9-12-2022; Ord. No. O-2023-1211-6, § 10.74(2), 12-11-2023)

Sec. 10-1272. Minimum development standards.

(a) All development must:

(1) Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) Be constructed with materials and equipment resistant to flood damage.

(3) Be constructed by methods and practices that minimize flood damage.

(4) Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the regulatory flood protection elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding.

(5) Be reasonably safe from flooding and consistent with the need to minimize flood damage.

(6) Be ensured to provide adequate drainage to reduce exposure to flood hazards.

(7) Not be detrimental to uses in adjoining areas; and

(8) Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(b) Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the regulatory flood protection elevation (RFPE), floodproofed, or protected by other measures as approved by the zoning administrator. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural, or industrial waste; and other wastes, as further defined in M.S.A. § 115.01, are prohibited unless adequate safeguards approved by the

state pollution control agency are provided. For projects not requiring approvals by the state pollution control agency, adequate safeguards must be approved by the zoning administrator prior to issuance of a permit.

(c) Critical facilities are to be located so that the lowest floor is not less than two feet above the base flood elevation (BFE), or the 0.2 percent annual chance flood elevation, whichever is higher.

Table 1. Summary of Permitting Requirements for Structures

Structure Type	*Floodway*	*Flood Fringe*	*Standards*[1]
Accessory structures-on fill	Only specific uses and types allowed-with CUP	Allowed with permit	10-1274(b)(3)d.2
Accessory structures—Alt. elevation methods	Only specific uses and types allowed-with CUP	Allowed with permit	10-1274(b)(3)d.3
Accessory structures—Wet floodproofing	Only specific uses and types allowed-with CUP	Allowed with permit	10-1274(b)(3)d.1
Accessory structures—Dry (watertight) floodproofing	Only specific uses and types allowed-with CUP	Allowed with permit	10-1274(b)(3)d.4
Residential—On fill	Not allowed	Allowed with permit	10-1274(b)(1)a
Residential—Alt. elevation methods	Not allowed	Allowed with CUP	10-1274(d)(1)
Residential—Dry (watertight) floodproofing	Not allowed	Not allowed	N/A
Nonresidential—On fill	Not allowed	Allowed with permit	10-1274(b)(2)a
Nonresidential—Alt. elevation methods	Not allowed	Allowed with permit	10-1274(b)(2)b
Nonresidential—Dry (watertight) floodproofing	Not allowed	Allowed with permit	10-1274(b)(2)c

[1] Note: Many of these standards are cross-referenced to avoid duplication.

(Code 2015, § 10.74(3); Ord. No. O-2022-0912-10, § 10.74(3), 9-12-2022; Ord. No. O-2023-1211-6, § 10.74(3), 12-11-2023)

Sec. 10-1273. Floodway district.

(a) *Permitted uses in floodway.* Development allowed in the floodway district is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one percent annual chance flood. The following uses and activities may be allowed with a permit, subject to the standards in subsection (b) of this section:

(1) Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.

(2) Roads, driveways, railroads, trails, bridges, and culverts.

(3) Public utility facilities and water-oriented industries which must be in or adjacent to watercourses.

(4) Grading, filling, land alterations, and shoreline stabilization projects.

(5) No structures, as defined in section 10-1213, are allowed in the floodway district, except structures accessory to the uses detailed in subsections (a)(1) and (c)(1) of this section, which require a CUP under subsection (c)(2) of this section.

(6) Levees or dikes intended to protect agricultural crops, provided the top of the dike does not exceed the ten percent annual chance flood event.

(b) *Standards for permitted uses in floodway.* In addition to the applicable standards detailed in this division:

(1) The applicant must demonstrate that the development will not result in any of the following during the one percent chance flood: cause a stage increase of zero feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g., projects that restore the site to the previous cross sectional area). This is commonly documented through a no-rise certification.

(2) Any development that would result in a stage increases greater than zero feet may only be allowed with a permit if the applicant has applied for and received approval for a conditional letter of map revision (CLOMR) in accordance with 44 CFR 65.12. Map revisions must follow the procedures in division 10 of this article.

(3) Any development resulting in decreases to the water surface elevation of the base flood identified in the flood insurance study requires a letter of map revision (LOMR) following the procedures in division 10 of this article.

(4) Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with M.S.A. § 103G.245 or a utility crossing license in accordance with M.S.A. § 84.415, from the department of natural resources, or demonstrate that no permit is required, before applying for a local permit.

(5) Any facility used by employees, or the general public must be designed with a flood warning system acceptable to the zoning administrator that provides adequate time for evacuation or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

(6) Fill and other land alteration activities must offer minimal obstruction to the flow of floodwaters and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap or other methods as soon as possible.

(c) *Conditional uses in floodway.* The following uses and activities may be permitted as conditional uses, subject to the standards detailed in subsection (d) of this section and section 10-1353:

(1) Commercial extractive uses, and storage and stockpiling yards.

(2) Structures accessory to uses detailed in subsections (a)(1) and (c)(1) of this section.

(d) *Standards for conditional uses in floodway.* In addition to the applicable standards detailed in subsection (b) of this section and section 10-1353:

(1) Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by the city.

(2) Accessory structures. Structures accessory to the uses detailed in subsections (a)(1) and (c)(1) of this section must be constructed and placed so as to offer a minimal obstruction to the flow of floodwaters and are subject to the standards in subsection (b)(3) of this section.

(Code 2015, § 10.74(4); Ord. No. O-2022-0912-10, § 10.74(4), 9-12-2022; Ord. No. O-2023-1211-6, § 10.74(4), 12-11-2023)

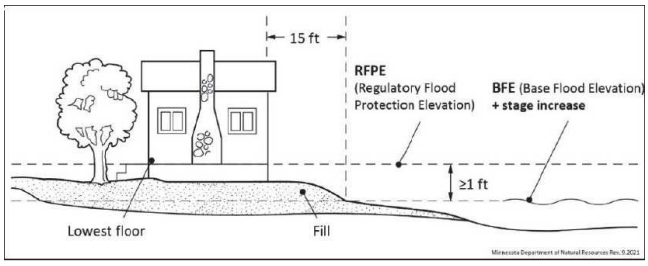
Sec. 10-1274. Flood fringe district.

(a) *Permitted uses in flood fringe.* Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in subsection (b) of this section.

(b) *Standards for permitted uses in flood fringe.* In addition to the applicable standards detailed in section 10-1276:

(1) *Residential structures.* Elevation on-fill. All structures to be erected, constructed, reconstructed, altered, or moved on fill within the flood fringe district shall be placed so that the lowest floor, as defined in section 10-1213, is elevated at or above the regulatory flood protection elevation (RFPE). The finished fill elevation shall be at or above the elevation associated with the base flood, plus any stage increases that result from designation of a floodway. 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 zoning administrator. Elevation methods alternative to these fill standards are subject to a conditional use permit, as provided in subsection (c)(1) of this section (Figure 3).

Figure 3. Overview of fill standards for residential structures



(2) *Nonresidential principal structures.* Nonresidential principal structures must meet one of the following construction methods:

a. *Elevation on fill.* Structures may be elevated on fill, meeting the standards in subsection (b)(1)a of this section. Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.

b. *Alternative elevation methods.* Structures may have their lowest floor elevated above the regulatory flood protection elevation (RFPE) using methods alternative to the fill standards in subsection (b)(1)a of this section. Such methods include the use of blocks, pilings (Figure 4), filled stem walls (Figure 5), or internally flooded enclosed areas (Figure 6) such as crawl spaces, attached garages, or tuck under garages.

Figure 4. Blocks or pilings

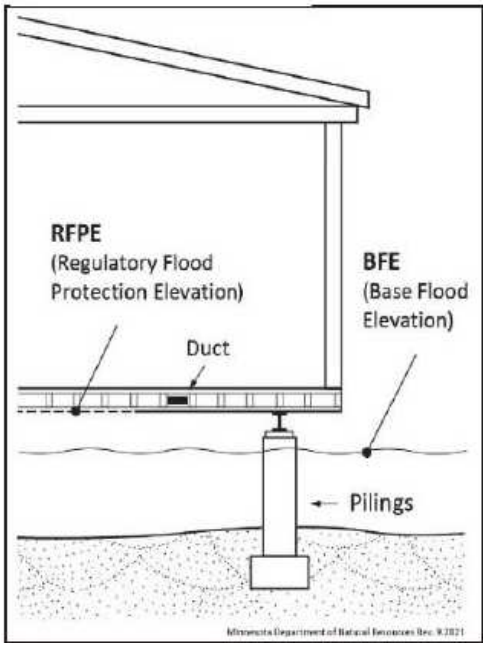
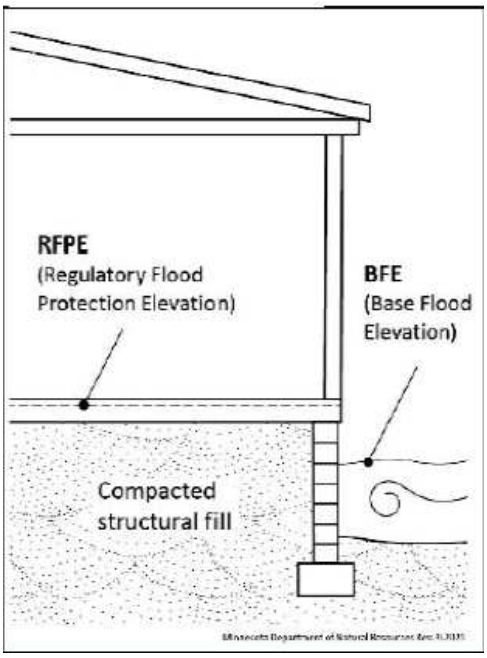
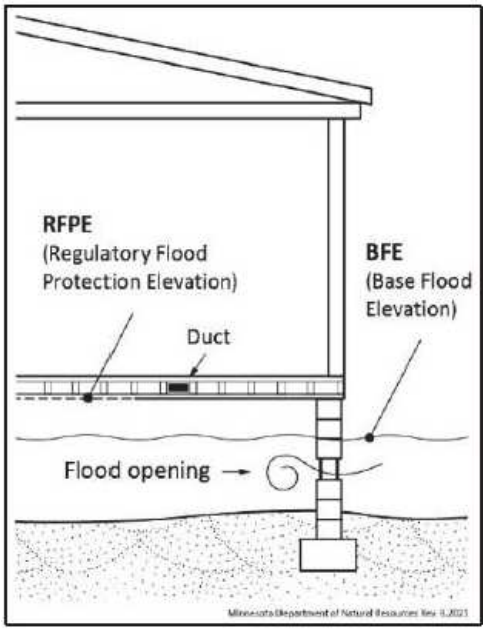


Figure 5. Filled stem wall



Internally flooded enclosed area



Designs accommodating for internally flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in FEMA Technical Bulletin 1, as amended, as well as the following standards:

1. The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.
2. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. 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. Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. Such areas shall be subject to a deed-restricted non-conversion agreement as well as periodic inspections with the issuance of any permit.

c. *Dry floodproofing.* Structures having watertight enclosed basements or spaces below the regulatory flood protection elevation (RFPE) must meet the following standards:

1. Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the regulatory flood protection elevation (RFPE); and
2. Must meet the standards of FEMA Technical Bulletin 3, as amended; and
3. A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this section.

(3) *Accessory structures.* All accessory structures must meet the following standards:

a. Structures shall not be designed or used for human habitation.

b. Structures will have a low flood damage potential.

c. Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the regulatory flood protection elevation.

d. Structures with two or more rigid walls, must meet one of the following construction methods:

1. *Wet floodproofing.* Structures may be floodproofed in a way to accommodate internal flooding. Such structures shall constitute a minimal investment not to exceed 576 square feet in size, one story in height, and shall only be used for parking and storage. 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 and shall allow automatic entry and exit of floodwaters without human intervention.

2. *Elevation on fill.* Structures may be elevated on fill, meeting the standards in subsection (b)(1)a of this section. Fill is not required to be extended 15 feet beyond the outside limits of the structure.

3. *Alternative elevation methods.* Structures may have their lowest floor elevated above the regulatory flood protection elevation (RFPE) through methods alternative to the fill standards in subsection (b)(3)d.2 of this section, meeting the standards in subsection (b)(2)b of this section.

4. *Dry floodproofing.* Structures may be dry-floodproofed, or watertight, meeting the standards in subsection (b)(2)c of this section.

(4) *Fill.* The cumulative placement of fill or other materials for any purpose, up to 1,000 cubic yards, is permitted. Additional fill over 1,000 cubic yards is only permitted if the fill is specifically intended to elevate a structure in accordance with subsection (b)(1) and (2)a of this section, or for a transportation project in accordance with section 10-1296. Fill over 1,000 cubic yards for the purposes other than these purposes requires a conditional use permit as provided in subsection (c)(2) of this section. Materials must be protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.

(5) *Access to the public right-of-way.* All new principal structures must provide for vehicular access to the public right-of-way no lower than the base flood elevation (BFE).

(6) *Flood warning system.* Any facilities used by employees, or the general public must be designed with a flood warning system acceptable to the city that provides adequate time for evacuation or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

(7) *Manufactured homes and recreational vehicles.* Manufactured homes and recreational vehicles must meet the standards of division 6 of this article.

(c) *Conditional uses in flood fringe.* The following uses and activities may be permitted as conditional uses, subject to the standards in subsection (d) of this section and section 10-1353:

(1) *Alternative elevation methods-residential structures.* Residential structures with their lowest floor elevated above the regulatory flood protection elevation (RFPE) using methods alternative to the fill requirements in subsection (b)(1) of this section.

(2) *Fill.* The cumulative placement of more than 1,000 cubic yards of fill or other materials, when the fill is not being used to elevate a structure or for a transportation project.

(d) *Standards for conditional uses in flood fringe.* In addition to the applicable standards detailed in subsection (b) of this section, section 10-1276 and section 10-1353:

(1) All residential structures with lowest floors elevated through alternative elevation methods must meet the standards for nonresidential structures in subsection (b)(2)b of this section.

(2) The placement of more than 1,000 cubic yards of fill or other materials (other than for the purpose of elevating a structure or for a transportation project) must comply with a site development and restoration plan approved by the zoning administrator. The plan must detail the anticipated topographic alterations and identify actions to be taken to mitigate environmental impacts, particularly erosion.

(Code 2015, § 10.74(5); Ord. No. O-2022-0912-10, § 10.74(5), 9-12-2022; Ord. No. O-2023-1211-6, § 10.74(5), 12-11-2023)

Sec. 10-1275. General floodplain district.

(a) *Permitted uses.*

(1) Until the floodway is delineated, allowable uses will be restricted to those listed in the floodway district, section 10-1273.

(2) All other uses are subject to a floodway/flood fringe determination as provided in section 10-1275(d) in addition to the standards provided in this section. Permitted uses shall be determined as follows:

a. If the development is determined to be in the floodway district, section 10-1273 applies.

b. If the development is determined to be in the flood fringe district, section 10-1274 applies.

(b) *Standards for determining flood elevations.*

(1) All development requires a determination of the base flood elevation (BFE). Exceptions to this requirement include projects that restore the site to the previous cross sectional area, such as shore stabilization or culvert replacement projects. Base flood elevations (BFE) may be found using best available data from any federal, state, or other source (including MNDNR's lake and flood elevations online (LFEO) viewer).

(2) The regulatory flood protection elevation (RFPE) can be determined by assuming a one-half-foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.

(c) *Encroachment analysis.*

(1) Encroachments due to development may not allow stage increases more than one-half foot at any point, unless through a map revision following the procedures in division 10 of this article. This evaluation must include the cumulative effects of previous encroachments and must be documented with hydrologic and hydraulic analysis performed by a professional engineer or using other standard engineering practices. A lesser water surface elevation increase of than one-half foot is required if, due to the water surface level increase, increased flood damages would potentially result.

(2) Alterations or changes that result in stage decreases are allowed and encouraged.

(d) *Standards for the analysis of floodway boundaries.*

(1) *Requirements for detailed studies.* Any development, as requested by the zoning administrator, shall be subject to a detailed study to determine the regulatory flood protection elevation (RFPE) and the limits of the floodway district. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minn. R. pt. 6120.5600, subpt. 4 and FEMA Guidelines and Standards for Flood Risk Analysis and Mapping, as revised. Additionally:

a. A regulatory floodway necessary to carry the discharge of the one percent annual chance flood must be selected without increasing the water surface elevation more than one-half foot at any point. This determination should include the cumulative effects of previous encroachments. A lesser water surface elevation increase than one-half foot is required if, due to the water surface level increase, increased flood damages would potentially result; and

b. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the department of natural resources.

(2) *Other acceptable methods.* For areas where a detailed study is not available or required: Development prohibited in floodways (e.g., most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The department of natural resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.

(Code 2015, § 10.74(6); Ord. No. O-2022-0912-10, § 10.74(6), 9-12-2022; Ord. No. O-2023-1211-6, § 10.74(6), 12-11-2023)

Sec. 10-1276. Subdivision standards.

All subdivided land must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this article.

(1) All lots within floodplain districts must be suitable for a building site outside of the floodway district.

(2) Subdivision of lands within the floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on the city.

(3) All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation (RFPE) unless a flood warning/emergency evacuation plan has been approved by the city.

(4) The floodway and flood fringe district boundaries, the regulatory flood protection elevation (RFPE) and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.

(Code 2015, § 10.74(7); Ord. No. O-2022-0912-10, § 10.74(7), 9-12-2022; Ord. No. O-2023-1211-6, § 10.74(7), 12-11-2023)

Secs. 10-1277—10-1295. Reserved.

DIVISION 5. RAILROADS, ROADS, BRIDGES, AND PUBLIC AND PRIVATE UTILITIES AND SERVICE FACILITIES

Sec. 10-1296. Public transportation facilities.

Railroad tracks, roads, and bridges must be elevated to the regulatory flood protection elevation (RFPE) where such facilities are essential to the orderly functioning of the area, or where failure or interruption would result in danger to public health or safety. 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. All public transportation facilities should be designed to minimize increases in flood elevations.

(Code 2015, § 10.75(1); Ord. No. O-2022-0912-10, § 10.75(1), 9-12-2022; Ord. No. O-2023-1211-6, § 10.75(1), 12-11-2023)

Sec. 10-1297. Public utilities.

All utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the regulatory flood protection elevation (RFPE), be located and constructed to minimize or eliminate flood damage and be designed to eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minn. R. pt. 7035.0300, are prohibited in the one percent annual chance floodplain. Water supply systems are subject to the provisions in Minn. R. pt. 4725.4350.

(Code 2015, § 10.75(2); Ord. No. O-2022-0912-10, § 10.75(2), 9-12-2022; Ord. No. O-2023-1211-6, § 10.75(2), 12-11-2023)

Sec. 10-1298. Private on-site water supply, individual sewage treatment systems, and other service facilities.

Private facilities shall be subject to applicable provisions detailed in section 10-1297. In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding, shall not be located in a designated floodway, and are subject to the provisions in Minn. R. pt. 7080.2270.

(Code 2015, § 10.75(3); Ord. No. O-2022-0912-10, § 10.75(3), 9-12-2022; Ord. No. O-2023-1211-6, § 10.75(3), 12-11-2023)

Secs. 10-1299—10-1324. Reserved.

DIVISION 6. MANUFACTURED HOMES AND RECREATIONAL VEHICLES

Sec. 10-1325. 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 placed and elevated in compliance with section 10-1274 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.

(2) New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in section 10-1276.

(Code 2015, § 10.76(1); Ord. No. O-2022-0912-10, § 10.76(1), 9-12-2022; Ord. No. O-2023-1211-6, § 10.76(1), 12-11-2023)

Sec. 10-1326. 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 section 10-1325; or

(2) Be travel ready, meeting the following criteria:

a. The vehicle must be fully licensed.

b. The vehicle must be ready for highway use, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities.

c. No permanent structural type additions may be attached to the vehicle.

d. Accessory structures may be permitted in the flood fringe district, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in sections 10-1272 and 10-1274(b)(3).

(Code 2015, § 10.76(2); Ord. No. O-2022-0912-10, § 10.76(2), 9-12-2022; Ord. No. O-2023-1211-6, § 10.76(2), 12-11-2023)

Secs. 10-1327—10-1350. Reserved.

DIVISION 7. ADMINISTRATION

Sec. 10-1351. Duties.

A zoning administrator or other official must administer and enforce this article.

(1) *Permit application requirements.* Permit applications must be submitted to the zoning administrator. The permit application must include the following, as applicable:

a. A site plan showing all existing or proposed buildings, structures, service facilities, potential obstructions, and pertinent design features having an influence on the permit.

b. Location and detail of grading, fill, or storage of materials.

c. Copies of any required local, state, or federal permits or approvals.

d. Other relevant information requested by the zoning administrator as necessary to properly evaluate the permit application.

(2) *Recordkeeping.* The zoning administrator must maintain applicable records, in perpetuity, documenting:

a. All certifications for dry floodproofing and alternative elevation methods, where applicable.

b. Analysis of no-rise in the floodway district, as detailed in section 10-1273(b)(1), and encroachment analysis ensuring no more than one-half foot of rise in the general floodplain district, as detailed in section 10-1275(b)(2) and (c)(1).

c. Final elevations, as applicable, detailing the elevation to which structures and improvements to structures are constructed or floodproofed. Elevations shall be determined by an engineer, architect, surveyor, or other qualified individual, as approved by the zoning administrator.

d. Substantial damage and substantial improvement determinations, as detailed in section 10-1377(3), including the cost of improvements, repairs, and market value.

e. All variance actions, including justification for their issuance, and must report such variances as requested by the Federal Emergency Management Agency.

(3) *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 finished fill and building floor elevations or other flood protection measures are in compliance with the requirements of this article.

(4) *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 in accordance with M.S.A. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.

(5) *Notification to FEMA when physical changes increase or decrease base flood elevations.* Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, the city must notify FEMA of the changes in order to obtain a letter of map revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six months after the date such supporting information becomes available. Within the general floodplain district, a map revision is only required if development results in stage increases greater than 0.5 feet.

(Code 2015, § 10.77(1); Ord. No. O-2022-0912-10, § 10.77(1), 9-12-2022; Ord. No. O-2023-1211-6, § 10.77(1), 12-11-2023)

Sec. 10-1352. Variances.

(a) *Variance applications.* An application for a variance to the provisions of this article will be processed and reviewed in accordance with M.S.A. § 462.357, subd. 6(2) and this article.

(b) *Adherence to state floodplain management standards.* Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law. Though variances may be used to modify permissible methods of flood protection, no variance shall permit a lesser degree of flood protection than the regulatory flood protection elevation (RFPE).

(c) *Additional variance criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(1) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances may only be issued by a community upon:

a. A showing of good and sufficient cause; and

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) *Flood insurance notice.* The zoning administrator must notify the applicant for a variance in writing that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

(e) *Considerations for approval.* The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplain districts:

(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 safety of access to the property in times of flood for ordinary and emergency vehicles.

(f) *Conditions of approval.* The city may attach such conditions to the granting of variances and conditional use permits as it deems necessary to fulfill the purposes of this article. Such conditions may include, but are not limited to, the following:

(1) Limitations on period of use, occupancy, and operation.

(2) Imposition of operational controls, sureties, and deed restrictions.

(3) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

(4) Other conditions as deemed appropriate by the zoning administrator and the city council.
(Code 2015, § 10.77(2); Ord. No. O-2022-0912-10, § 10.77(2), 9-12-2022; Ord. No. O-2023-1211-6, § 10.77(2), 12-11-2023)

Sec. 10-1353. Conditional uses.

(a) *Administrative review.* An application for a conditional use permit will be processed and reviewed in accordance with the provisions in this article.

(b) *Considerations for approval.* In passing upon conditional use applications, the city must consider all relevant factors specified in other sections of this article, including those detailed in section 10-1352(e).

(c) *Conditions of approval.* In addition to the standards identified in sections 10-1273(d) and 10-1274(d), the city may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this article, including those detailed in section 10-1352(f).
(Code 2015, § 10.77(3); Ord. No. O-2022-0912-10, § 10.77(3), 9-12-2022; Ord. No. O-2023-1211-6, § 10.77(3), 12-11-2023)

Sec. 10-1354. Notifications to the department of natural resources.

(a) All notices of public hearings to consider variances or conditional uses under this ordinance must be sent via electronic mail to the department of natural resources respective area hydrologist at least ten days before the hearings. Notices of hearings to consider subdivisions/plats must include copies of the subdivision/plat.

(b) A copy of all decisions granting variances and conditional uses under this ordinance must be sent via electronic mail to the department of natural resources respective area hydrologist within ten days of final action.
(Code 2015, § 10.77(3); Ord. No. O-2022-0912-10, § 10.77(3), 9-12-2022; Ord. No. O-2023-1211-6, § 10.77(3), 12-11-2023)

Secs. 10-1355—10-1376. Reserved.

DIVISION 8. NONCONFORMITIES

Sec. 10-1377. Continuance of nonconformities.

A use, structure, or occupancy of land which was lawful before the passage or amendment of the ordinance from which this chapter is derived, but which is not in conformity with the provisions of this division, may be continued subject to the following conditions:

(1) Within the floodway and general floodplain districts (when a site has been determined to be located in the floodway following the procedures in section 10-1275(d), or when the floodway has not been delineated), expansion or enlargement of uses or structures is prohibited.

(2) Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this chapter, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the regulatory flood protection elevation (RFPE).

(3) If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in section 10-1378, it may not be reconstructed except in conformity with the provisions of this chapter.

(4) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this article.

(5) If any nonconforming structure has utilities, electrical, or mechanical equipment damaged due to flooding, it must be rebuilt in conformance with the elevation requirements in section 10-1272(a)(4) to the greatest extent practicable. This requirement shall apply regardless of the determinations made in section 10-1378.

(Code 2015, § 10.78(1); Ord. No. O-2022-0912-10, § 10.78(1), 9-12-2022; Ord. No. O-2023-1211-6, § 10.78(1), 12-11-2023)

Sec. 10-1378. Substantial improvement and substantial damage determinations.

Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the zoning administrator is required to determine if such work constitutes substantial improvement or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures:

(1) Estimate the market value of the structure. In cases where the property has sustained damage, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.

(2) Estimate the cost of the project. The property owner shall accommodate for inspection, and furnish other documentation needed by the zoning administrator to evaluate costs.

   a. Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past one year.

b. Costs to restore damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if structure is being restored beyond its pre-damaged condition.

(3) Compare the cost of the project and/or repairs to the estimated market value of the structure and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in section 10-1213.

a. For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since the community has adopted floodplain standards impacting this structure.

b. If any nonconforming structure experiences a repetitive loss, as defined in section 10-1213, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this chapter.

(4) Based on this determination, the zoning administrator shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this article.

(Code 2015, § 10.78(2); Ord. No. O-2022-0912-10, § 10.78(2), 9-12-2022; Ord. No. O-2023-1211-6, § 10.78(2), 12-11-2023)

Secs. 10-1379—10-1409. Reserved.

DIVISION 9. VIOLATIONS AND PENALTIES

Sec. 10-1410. Uses in violation.

Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this article shall be considered a public nuisance.

(Code 2015, § 10.79(1); Ord. No. O-2022-0912-10, § 10.79(1), 9-12-2022; Ord. No. O-2023-1211-6, § 10.79(1), 12-11-2023)

Sec. 10-1411. Civil remedies.

The creation of a public nuisance may be enjoined and the maintenance of a public nuisance under this article may be abated by an action brought by the city or the department of natural resources.

(Code 2015, § 10.79(2); Ord. No. O-2022-0912-10, § 10.79(2), 9-12-2022; Ord. No. O-2023-1211-6, § 10.79(2), 12-11-2023)

Sec. 10-1412. Enforcement.

Violations of the provisions of this article constitute a misdemeanor and are punishable as defined by law. The zoning administrator 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. The city must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
(Code 2015, § 10.79(3); Ord. No. O-2022-0912-10, § 10.79(3), 9-12-2022; Ord. No. O-2023-1211-6, § 10.79(3), 12-11-2023)

Secs. 10-1413—10-1432. Reserved.

DIVISION 10. AMENDMENTS

Sec. 10-1433. FEMA floodplain map revisions and new map annexations.

Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an article amendment to update the map references in section 10-1246.
(Code 2015, § 10.80(1); Ord. No. O-2022-0912-10, § 10.80(1), 9-12-2022; Ord. No. O-2023-1211-6, § 10.80(1), 12-11-2023)

Sec. 10-1434. Required approval.

All amendments to this article must be submitted to the department of natural resources for review and approval prior to adoption, for compliance with state and federal rules and requirements. The floodplain article shall not be considered valid until approved.
(Code 2015, § 10.80(2); Ord. No. O-2022-0912-10, § 10.80(2), 9-12-2022; Ord. No. O-2023-1211-6, § 10.80(2), 12-11-2023)

Secs. 10-1435—10-1461. Reserved.

ARTICLE X. STANDARD OF GENERAL APPLICABILITY

DIVISION 1. GENERALLY

Sec. 10-1462. Accessory uses and structures.

Except as otherwise expressly provided or limited in this section, accessory uses and structures are permitted in any zoning district in connection with any principal use lawfully existing within such district.

(1) *Compliance.* No accessory use or structure shall be established or constructed unless in compliance with this article.

(2) *Use limitations.* In addition to any other condition or limitation required by this section, accessory uses and structures shall be subject to the following conditions and limitations:

a. No accessory use or structure shall be established or constructed before the principal use is in operation or the principal structure is under construction in accordance with these regulations.

b. In residential districts, no sign shall be erected in connection with an accessory use or structure.

(3) *General yard, bulk, and height limitations.* All accessory uses permitted by this section shall be subject to the following general requirements:

a. *Location of accessory building in required yards.*

1. Accessory buildings are prohibited in any required front yard or side yard setbacks.

2. No accessory building on a corner lot shall be located in the corner side yard.

b. *Maximum coverage.* In residential districts, an accessory building shall not occupy more than 50 percent of the total area of the required rear yard.

c. *Maximum height of accessory structures.* The height of accessory buildings shall not exceed the limits set for uses permitted in the district. However, accessory utility structures shall comply with applicable Federal Communications Commission or Federal Aviation Administration height regulations.

(4) *Minimum structural requirements.* Accessory buildings in residential zoning districts shall conform to the following minimum structural requirements:

a. The roof style of the accessory building shall be similar to the roof style of the main building.

b. Corrugated metal exterior finishes are prohibited for accessory buildings that have ground coverage of greater than 120 square feet.

c. The construction shall conform to the uniform building code as adopted by the city council.

d. The building shall be constructed on a concrete slab or footing.

(5) *Kennel, private.* Private dog kennels in residential zoning districts shall not be allowed in the required front or side yards. Kennels may be located in the rear yard setback, provided all portions of the kennel are located at least three feet from any property line.

(6) *Satellite dishes and antennas.* Satellite dishes and antennas shall not be allowed in any required front or side yard. Satellite dishes or antennas shall be allowed in the rear yard, provided the satellite dish or antenna, including support structures, are set back three feet from any property line.

(Code 2015, § 10.81(1); Ord. No. O-2022-0509-2, § 10.81(1), 5-9-2022)

Sec. 10-1463. Obstructions.

Projections of a principal or accessory structure may be located in a required yard only as indicated below. In no case shall any obstruction extend beyond the limits of the lot, and adequate drainage shall be provided which is directed away from adjacent private property.

(1) Air conditioners, central air outside condensing units, and window units, projecting not more than 36 inches into the required yard.

(2) Arbors and trellises in all required yards.

(3) Architectural ornaments and projections not more than four inches into a required yard.

(4) Unenclosed awnings and canopies extending not more than 2.5 feet into front or side yards and not more than five feet into rear yards. Such canopy shall be cantilevered from the principal or accessory structure and shall not contain separate ground supports.

(5) Fences or walls.

(6) Fire escapes may extend into the required side yard a distance not exceeding 36 inches.

(7) Flagpoles.

(8) Unenclosed porches, landings, or steps; provided the area of the porch, landing, or step does not exceed 64 square feet, and does not project more than eight feet into the required front yard or three feet into the required side yard.

(9) Projecting eaves, gutters, bay windows, and cantilevered building extensions, provided the projection is more than 36 inches above the ground grade and projects not more than 2.5 feet into the required side yard or four feet into their required front or rear yards.

(10) Fireplaces, not more than 2.5 feet into the required side yard or four feet into their required front or rear yards.

(Code 2015, § 10.81(2))

Sec. 10-1464. Basement dwellings.

No basement dwelling shall hereafter be permitted in any district. Existing basement dwellings shall have the status of nonconforming uses. Basement dwellings are defined in the uniform building code (chapter 12).

(Code 2015, § 10.81(3))

Sec. 10-1465. Corner lots.

Every corner lot shall provide a required front yard and a corner side yard on the secondary street side of the lot. The width of the corner side yard shall not be less than one-half the distance of the required front yard depth requirement for the lot. The corner side yard shall extend from the front to the rear of the lot along the secondary side street. No building shall be allowed in the corner side

yard, and the restrictions on parking in the front yard shall apply to parking in the corner side yard. Corner lots in the B-3 district shall provide a corner side yard equal to the dimensions of the required front yard.
(Code 2015, § 10.81(4))

Sec. 10-1466. Through lots.

There shall be provided a required front yard and a required rear yard on a through lot. The required setback from the rear property line for accessory structures shall be one-half the required front yard setback.
(Code 2015, § 10.81(5))

Sec. 10-1467. Exceptions to district setback and height restrictions.

(a) *Front yard exception.* In a block where the average of the front yard of existing improved lots within a distance of 100 feet on both sides of a lot is not more than six feet or not less than six feet than the required front yard, the required front yard for the lot shall be the front yard average of the improved lots. Where the average is greater than six feet or less than six feet, the zoning administrator shall establish the required front yard.

(b) *Building height exceptions.* The building height limits established herein for districts shall not apply to belfries, cupolas, domes, spires, monuments, roof houses, airway beacons, radio towers, windmills, flagpoles, chimneys or flues, not to bulkheads elevators, water tanks or towers, and other structures for essential services, not to similar structures or necessary mechanical appurtenances extending above the roof of any building and not occupying more than 25 percent of the area of such roof. When permitted in a district having a building height limit of less than 75 feet, public buildings, schools, churches, and other institutions, and semi-public buildings may be erected to a height not exceeding 75 feet, provided the front yard depth, side yard widths, and rear yard depth shall each be increased by one over and above the requirement for the district for each two feet of building height above the building height limit for the zoning district.

(c) *Side yard exceptions for attached private garages.* For one-family dwellings with an attached private garage in existence on the effective date of the ordinance from which this chapter is derived, the required side yard setback may be reduced to three feet for the purpose of constructing an addition to the attached private garage; provided the attached private garage is less than 24 feet in width on the effective date of the ordinance from which this chapter is derived. The addition to the attached garage shall only be allowed in conformance with the following:

(1) The cumulative width of the existing garage and garage addition shall not be more than 24 feet.

(2) The building height of the garage addition shall not be greater than the building height of the existing attached garage.

(3) The garage addition shall not encroach into a recorded easement.

(4) The garage addition shall comply with all the other requirements of this article and the uniform building code.

(5) The existing garage and garage addition shall only be used as a private garage.

(6) Adequate drainage shall be provided and drainage shall be directed away from adjacent private property.

This exception shall not apply to the corner side yard (refer to sections 10-2 and 10-1465).

(d) *Exception for continuation of existing building line.* In an instance where the building line of a legal nonconforming principal structure or attached private garage is not set back from a property line in conformance with this article, the principal structure and attached private garage may be structurally expanded in a manner consistent with the existing building line and in conformance with the following restrictions:

(1) The use of the structure is conforming to the zoning district in which it is located.

(2) The expansion of the structure shall not be located closer to the lot line than the existing building line, and at least one-half of the required setback is provided between the building line of the expansion and the lot line.

(3) The expansion of the structure will not reduce any other required setback below the minimum standards of this article.

(4) The expansion of the structure will conform to all other restrictions of this article, including, but not limited to, density, lot coverage, building height, and parking and loading requirements.

(5) The height of the expansion shall not be greater than the existing structure at the existing building line.

(6) Adequate drainage will be provided and the drainage shall be directed away from adjacent private property.

(7) The expansion of the structure will not encroach into the required site triangle as defined in section 5-20.

(8) This exception shall not apply to detached accessory buildings.

(Code 2015, § 10.81(6))

Sec. 10-1468. Computation of rear yard with adjoining alley.

When computing the depth of a rear yard for any lot located in a residential district where the rear lot line adjoins an alley, one half the width of such alley may be included as rear yard depth, provided that the rear yard depth of the lot, exclusive of the alley, shall not be less than 20 feet.

(Code 2015, § 10.81(7))

Sec. 10-1469. Computation of lot area with adjoining alley.

When computing the required lot area for a lot which adjoins an alley, one-half of the width of the alley up to ten feet may be included as part of the lot area.

(Code 2015, § 10.81(8))

Sec. 10-1470. Decks, patios, balconies, and ramps in the R-1, R-2, R-3, R-4, and OR zoning districts.

The following regulations shall apply to accessory decks, patios, balconies, and ramps in the R-1, R-2, R-3, R-4, and OR zoning districts:

(1) The following shall not be considered as encroachments in required front yards: Uncovered ramps constructed for the purpose of providing handicap access, provided that the ramp has a railing no higher than 36 inches and does not extend nearer than five feet to the front lot line.

(2) The following shall not be considered encroachments in required side yards: Uncovered ramps constructed for the purpose of providing handicap access which do not extend nearer than three feet to the side lot line.

(3) The following shall not be considered encroachments in required rear yards:

a. Attached decks not more than two feet above grade (exclusive of any railing), or uncovered ramps constructed for the purpose of providing handicap access, provided that the deck or the ramp shall be set back at least ten feet from the rear lot line.

b. Attached uncovered balconies or decks higher than two feet above grade that are set back at least 15 feet from the rear lot line.

(4) The following shall not be considered encroachments in required front yards: Attached decks may extend eight feet into the required front yard setback, provided that the deck is at least ten feet from the property line. The height of the deck shall not exceed the height of the front entrance of the principal building.

(5) Decks and ramps shall be included in the calculations for lot coverage.

(6) All of the preceding permitted setback encroachments shall not be construed to allow encroachment into an easement of record.

(Code 2015, § 10.81(9); Ord. of 7-9-2001)

Sec. 10-1471. Pools.

Pools, either in-ground or with a depth of water greater than 3.5 feet shall conform to the following standards:

(1) All pools shall be located a minimum of ten feet from any side or rear lot line and a minimum of six feet from any principal structure or frost footing. No pool shall be located within any front yard. Pools shall be constructed and maintained in accordance with this section and all other applicable city or state regulations.

(2) No pool shall be located beneath overhead electrical lines or over underground utility lines of any type.

(3) No pool shall be located within any private or public utility, walkway, drainage, or other easement.

(4) All accessory mechanical apparatus shall be located at least 30 feet from any adjacent residential structure and no closer than five feet to any lot line.

(5) Lighting for the pool shall be oriented so as not to cast light onto adjacent properties.

(6) To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainageways. Water shall not drain onto adjacent or nearby private land or sanitary sewers without prior approval. Water must be tested by the owner and clear of chemicals prior to drainage.

(7) Except where exempted below, a security fence of at least six feet in height shall completely enclose the pool area. Openings or points of entry into the pool area enclosure must be equipped with gates. Gates must be equipped with self-closing or self-latching devices capable of being locked, placed on top of the gate or another place inaccessible to small children. All fence posts shall be decay or corrosion-resistant and shall be set in concrete bases or other suitable protection. The opening between the bottom of the fence and the ground or other surface shall be not more than four inches. The security fence shall be screened in conformance with the requirements of article X, division 8, of this chapter. Exemptions for private residential pools:

a. In-ground private residential pool with an automatic cover that conforms with the specifications of the ASTM F 1346-91 standard. Pool covers shall be maintained in good working condition.

b. Aboveground private residential pool with a sidewall or other barrier of 48 inches or more above grade provided the steps, ladder, ramp, or other form of access is designed to be secured, locked, or removed to prevent access.

(8) If a pool is the primary use of the zoning lot, the owner shall have proof of insurance.

(9) No in-ground pool shall be constructed unless a building permit has first been obtained from the building official, or designee. In addition, such pools shall be subject to site plan review pursuant to article X, division 10, of this chapter.

(Code 2015, § 10.81(10); Ord. No. O-2022-0509-2, § 10.81(10), 5-9-2022)

Secs. 10-1472—10-1490. Reserved.

DIVISION 2. SPECIAL PROVISIONS APPLICABLE TO SPECIFIC PERMITTED AND CONDITIONAL USES

Sec. 10-1491. Home occupations.

It is the findings of the city council that home occupations effect neighborhood character, have a potential to be a nuisance to neighbors, and may negatively affect city services. The purpose of this division is to regulate home occupations in order to avoid such negative impacts and to ensure the integrity and goals of the residential zoning districts. Standards for home occupations are intended to ensure compatibility with other permitted uses and the character of the residential neighborhood.

(1) *No special permission required.* When an accessory use is deemed a home occupation, as defined in this division, it means that the owner, lessee, or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation in conformance with this section, without securing special permission from the city. This shall not be construed to exempt owners, lessees, or other persons who have a legal right to the use of the dwelling unit from other applicable regulations of this Code.

(2) *Allowed in residential zoning districts.* Home occupations are allowed as accessory uses where the principal use of the premises is a dwelling. The accessory use of residential property for a home occupation shall conform to the following standards:

a. Such home occupation shall be conducted solely by residents of the dwelling.

b. Such home occupation shall be contained entirely within the dwelling. The use of detached accessory buildings or private garage, attached or detached, for a home occupation is prohibited.

c. There shall be no outside storage of materials, goods, supplies, or equipment of any kind related to the home occupation.

d. Such occupation shall create no noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than what normally occurs in a residential zoning district.

e. No employees, which do not reside at the premises on which the home occupation is located, shall report to work at the location of the home occupation or park motor vehicles on the property or in the vicinity of the home occupation.

f. No commercial vehicle in excess of 9,000 pounds gross weight shall be used in connection with the home occupation or parked on the property.

g. One automobile is allowed to be used in connection with a home occupation. Such vehicle shall be parked on a conforming off-street parking stall located on the property.

h. No traffic or parking demand shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.

i. Only one sign shall be allowed. The sign may display the name of the occupant or the name of the home occupation. The sign shall be nonilluminated and attached flat to an exterior wall of the dwelling or visible through a window of the dwelling.

j. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises, or vibrations.

(3) *Prohibited home occupations.* The following uses, by the nature of the investment or operation, have a pronounced tendency to rapidly increase beyond the limits permitted for home occupations. The following uses, therefore, are not permitted as home occupations:

a. Automobile, boat, and trailer painting.

b. Automobile, boat, and trailer repair or servicing.

c. Automobile, boat, and trailer sales or rental.

d. Junkyard, scrapping, or salvage operations.

e. Medical or dental offices.

f. Mortuaries or funeral homes.

g. Painting, electrical, plumbing, or general contractor; unless operated only as an office for the uses, and provided further that no employees report to work at the premises.

h. Restaurants or other eating and drinking establishments.

i. Any other use as determined by the city council.

(Code 2015, § 10.82(1))

Sec. 10-1492. Child day care.

In addition to any other condition or limitation required by this article, day care facilities that are not operated as home occupations shall be subject to the following conditions and limitations:

(1) Where the facility is accessory to a principal use, service shall be made available to the employees of the principal use.

(2) Each facility shall provide separate off-street passenger loading and unloading areas devoted solely to the facility.

(3) Each facility shall provide a separate and protected outside recreation area.

(4) Where the facility is accessory to a principal use, physical separation from the major operations of the principal use shall be required and direct access to the principal use shall be restricted or otherwise controlled.

(Code 2015, § 10.82(2))

Sec. 10-1493. Bed and breakfast establishments.

In addition to any other condition or limitation required by this article, bed and breakfast establishments shall be subject to the following conditions and limitations:

(1) The bed and breakfast residence shall be owner-occupied.

(2) The number of dwelling units within the bed and breakfast residence, which are not used by guests of the bed and breakfast establishment, shall conform to the density regulations of this article.

(3) One bed and breakfast bedroom shall be allowed per dwelling unit lot area standard.

(4) Two parking spaces are required for each dwelling unit, plus one additional parking space for each bed and breakfast bedroom. Required parking for dwelling units and bed and breakfast bedrooms shall be located on the zoning lot. Guests and residents in the dwelling units shall be assigned parking spaces.

(5) Required parking spaces shall not be located in the required front or side yards. Thirty-five percent of the rear yard may be used for unenclosed parking.

(6) The number of guests allowed to a permitted accessory activity, such as a wedding, banquet, dinner, etc., shall be based on the number of off-street parking spaces available at the bed and breakfast. Two parking spaces shall be required for each three guests. Required off-street parking for a permitted accessory activity shall be provided on the zoning lot or within 300 feet of the zoning lot. Guests shall be required to park at the off-street parking areas provided.

(7) Parking spaces shall be screened from view at ground level from all adjoining properties, public streets and ways.

(8) Parking spaces shall be hard surfaced with concrete or asphalt and shall be well-drained, stripped, and numbered.

(9) The structure and performance of the operation of the bed and breakfast and residence shall comply with all local, county, and state regulations.

(10) Signage shall not exceed one single- or two-sided sign not exceeding six square feet on one side. The sign may be attached to the dwelling or located five feet from any property line. The signage shall not be illuminated.

(11) The owner of the bed and breakfast shall maintain a guest register showing the name, address, motor vehicle license number, and inclusive dates of visits of all guests. No guest shall be permitted to rent accommodations or remain in occupancy for a period in excess of 14 calendar days during any consecutive 90-day period.

(12) Meals shall be served only to registered bed and breakfast guests or registered guests of a permitted accessory activity.

(13) Accessory activities shall be limited to the hours of 9:00 a.m. to 5:00 p.m., Monday through Thursday, 9:00 a.m. to 10:00 p.m., Friday and Saturday, and 12:00 noon to 8:00 p.m. on Sundays and holidays.

(14) Sound and light emanating from the property shall not be disruptive to the normal peace and quiet of the neighborhood.

(15) The city council may modify standards or require additional standards which are site specific in order to ensure the compatibility of the bed and breakfast activities with the neighborhood in which it is located.

(16) The city council reserves the right to review the conditional use permit annually and either continue or modify the conditions of the permit.

(17) The city council reserves the right to terminate the conditional use permit any time the owner fails to adhere to the standards or conditions established by this section or contained in the conditional use permit.

(Code 2015, § 10.82(3))

Sec. 10-1494. Restaurants, bars, and other eating establishments, unenclosed service area or unenclosed seating area.

Restaurants, bar, and other eating establishments serving intoxicating liquor in an unenclosed service area or providing an unenclosed seating area where intoxicating liquor is consumed must, in addition to complying with any applicable provisions of chapter 3, ensure the following:

(1) The area shall not be located in a required yard or setback.

(2) The area shall be located on a side of the building that is not facing or visible from an abutting residential zoning district or a residential zoning district that is located across the street from the zoning lot.

(3) Adequate lighting shall be provided in the unenclosed service area or unenclosed seating area. All exterior lighting shall comply with the full cutoff lighting provisions of article X, division 9, of this chapter.

(4) The unenclosed seating area must be surrounded by a wall or fence and landscaping in conformance with chapter 3. The wall or fence and landscaping shall be designed so as not to allow individuals to enter or exit the unenclosed service or seating area except for direct access into the main building or other approved access or egress. The unenclosed seating area shall be designed so as not to obstruct a required entrance/exit of the main building. The final design of the seating area shall be reviewed by the city manager, or designee and the standards for the operation, maintenance, and design of the seating area shall be part of the license granted under chapter 3.

(5) No sound amplification equipment shall be located in, or directed into, the unenclosed service area or unenclosed seating area, unless prior approval of the city manager has been obtained per chapter 3.

(6) The permitted occupancy of the unenclosed seating area shall be established by the seating plan that is reviewed and approved by the city fire marshal and building official. The permitted occupancy shall be part of the liquor licensing requirements under chapter 3.

(7) The city council may modify the standards by granting a liquor license under the provisions of chapter 3.

(Code 2015, § 10.82(4); Ord. of 3-27-2006; Ord. of 11-26-2007)

Sec. 10-1495. Drive-through facilities.

Drive-through facilities shall conform to the following minimum standards:

(1) The drive-through facility, including drive-through traffic lanes and parking areas for waiting automobiles, shall not be located in any required yard.

(2) The drive-through facility shall provide three off-street parking spaces for waiting automobiles in each drive-through traffic lane. A parking space shall be a minimum of 19 feet by nine feet, and parking spaces may be provided in a tandem arrangement. If drive-through traffic lanes are not utilized, then parking spaces equal to three times the maximum number of customer automobiles that can be serviced at any one time shall be provided.

(3) The drive-through facility, and accessory parking areas and drive-through traffic lanes, shall not obstruct or interfere with other traffic lanes or parking areas located on the zoning lot.

(4) If the operation of the drive-through facility results in traffic hazards or congestion on public streets or alleys, the city council may order the modification or termination of the drive-through facility.

(Code 2015, § 10.82(5))

Sec. 10-1496. Automobile service stations and car washes.

In addition to any other conditions or limitations required by this article, automobile service stations and car washes shall be subject to the following conditions and limitations:

(1) No automobile service station or car wash building or structure, driveway surface, parking area, advertising device or other similar site improvement, except driveways traversing a public road or boulevard, shall be located within 100 feet of any part of a residential district site.

(2) Each site shall have a minimum frontage of 100 feet.

(3) Each site shall be permitted two points of ingress and egress for every 100 feet of frontage.

(4) Pump islands shall be set back not less than 15 feet from any street right-of-way and 25 feet from any property line not abutting a street right-of-way.

(5) Canopies covering pump islands shall not be locating in, or overhang, required yards.

(6) Unenclosed parking of vehicles not being serviced or not owned by the station operator shall be limited to 12 hours.

(7) Interior curbs of not less than six inches shall be constructed to separate driving surfaces from sidewalks, landscaped areas, and street traveled ways.

(8) Interior drives, parking areas, and service stalls shall not be located in the required front yard.

(9) Islands for sweeping and vacuuming equipment shall be set back not less than 15 feet from any street right-of-way and three feet from any property line not abutting a street right-of-way.

(10) Three parking spaces for waiting vehicles shall be provided for each washing bay. A parking space shall be a minimum of 19 feet by nine feet and such parking spaces may be provided in tandem. If bays are not utilized, then parking spaces equal to three times the maximum number of automobiles that can be washed at any one time shall be provided.

(11) The accessory sale of lubricating oil, grease, tires, batteries, automobile accessories or any other items related to the operation of motor vehicles shall be allowed. Accessory services shall be limited to include the washing of vehicles, sale and installation of tires, oil changing, lubrication services, or minor repair work and mechanical maintenance.

(12) Automobile service stations shall not include the storage of nonoperable vehicles, services for large commercial trucks, major automobile repairs, automobile wrecking or automobile

sales of any kind. No automobile service station may lease trucks, cars or trailers, operate automobile sales, or operate an automobile wash without obtaining a conditional use permit from the city council.

(Code 2015, § 10.82(6))

Sec. 10-1497. Outside storage of materials, commercial, and industrial districts.

Where outside storage of materials, equipment, and product is permitted, or is conditionally permitted, in commercial or industrial zoning districts, such outside storage shall conform to the following provisions:

(1) In commercial districts, outside storage areas shall be fenced and screened from any abutting property, residential district, and public street or way by fencing or screen planting of 90 percent opacity. Such fencing or screen planting shall be not less than eight feet in height.

(2) In industrial districts, outside storage areas shall be screened from the public street and residential districts by screen fencing or plantings of 90 percent opacity.

(3) Unenclosed storage areas shall not violate section 11-32 pertaining to the unenclosed storage or refuse and waste, unless a conditional use permit has been granted by the city council to allow a junkyard or automobile wrecking yard in the M-2 district.

(4) Storage areas in all commercial districts shall be hard-surfaced with concrete or asphalt. Storage areas in the industrial districts may have a gravel surface, provided the storage area is used only to store heavy machinery and the access to the storage area is not less than 100 feet from a public right-of-way.

(5) Storage areas shall not be located in transitional yards.

(6) Seasonal unenclosed uses. The unenclosed sale and display of cut Christmas trees, wreathes, tree branches, pine cones, holly, and related plant items during the months of November and December, and the unenclosed sale and display of plants and garden supplies during the months of April, May, June, and July shall be permitted as an accessory use, provided that the sale and display is conducted in connection with the operation of an existing retail use in a B-1, B-2, or B-3 district, and that the area used for the unenclosed sale and display does not exceed 20 percent of the area of the parcel containing buildings or use more than 20 percent of the required parking area.

(7) Outside display of products. The purpose of this section is to regulate outside display of products in order to avoid such negative impacts and to ensure the integrity and goals of the residential zoning districts. Standards for outside display of products are intended to ensure compatibility with other permitted uses and the character of the commercial zoning districts.

a. No special permission required. When a use is deemed as an accessory use, as defined in this chapter, it means that the owner, lease, or other persons who have a legal right to the use of the properties located in B-1, B-2, or B-3 districts for commercial purposes also have the vested right to allow for outside display of product in conformance with this section, without securing special permission from the city.

This shall not be construed to exempt owners, lessees, or other persons who have a legal right to the use of the commercial forum under other applicable regulations of this Code.

b. Allowed in commercial zoning districts. Outside display of products are allowed as accessory uses where the principal use of the premises is a permitted or conditional use in the B-1, B-2, and B-3 districts. The accessory display on the commercial property shall conform to the following standards:

1. The outside display of products shall be permitted as an accessory use, provided that the sale and display is limited to ten items normally produced or sold in the principal structure in a B-1, B-2, or B-3 district.
2. Products are only displayed outside during posted business hours of the principal use. Products shall be stored inside during nonbusiness hours. Weather-resistant, bulk items are exempt from the hours of display provision provided a plan is approved by the zoning administrator and the items conform with the other sections of this article.
3. Propane tanks: Twenty-pound propane tanks are permitted, provided the tanks are stored in a locked storage container, no more than one storage container per property and the storage container does not exceed 50 cubic feet, six feet in height, complies with all applicable fire and safety codes, and is located to allow at least three feet of clearance for pedestrian traffic and advertising is limited to one square foot.
4. The product is displayed immediately adjacent to the front or corner side of the building, the product is not to be placed within a required front, side, corner side, or rear yard, and the product does not restrict fire access or handicap accessibility. The product or displays shall not be placed within a delineated parking area. An unoccupied area of not less than three feet in width shall be provided for pedestrian access between any outside display and vehicle overhang areas of any adjacent parking lot.
5. The area used for the outside display of products does not exceed the length of the commercial tenant space or a maximum of 100 linear feet. Automobile dealers, other vehicle dealers and rental and leasing services, lumberyards and nurseries are exempt from the percent and length limitation.
6. Tenants within multitenant buildings shall only display products immediately adjacent to the tenant storefront or a maximum of 100 linear feet.
7. Product shall not be displayed on the roof of any building.
8. Accessory adult use shall be prohibited from both internal and external advertising and signing of adult materials and products as per the standards of article X, division 3, of this chapter.
9. No signage shall be allowed on the products displayed outside with the exception of one square foot signage for pricing of the products displayed.

(Code 2015, § 10.82(8); Ord. of 2-9-2004)

Sec. 10-1498. Substantial land alteration.

(a) A conditional use permit shall be required where the excavation, grading, and filling of any land would result in the movement of earth and materials in excess of 25 cubic yards and would significantly change the existing ground contour and existing drainage, or cause flooding or erosion. A conditional use permit shall also be required for any excavation, grading, and filling of any land located in the environmentally sensitive areas as defined in section 10-1500.

(b) The above requirement for a conditional use permit shall not apply to subdivisions or development projects for which an approved grading or drainage plan was submitted and approved as part of the required review process for subdivisions or planned unit developments.

(c) The conditional use permit shall be administered through and subject to the requirements of the conditional use process pursuant to article XI, division 3, of this chapter. In addition to the requirements set forth in article XI, division 3, of this chapter, applications for a conditional use permit shall include the following:

(1) A legal description of the land to be altered.

(2) The nature of the proposed alteration and future use of the property.

(3) The starting date and the completion date of the land alteration.

(4) The names of all the owners of all the land to be altered.

(5) The names and addresses of all owners and occupants of land adjoining the land to be altered.

(6) A plan showing existing and proposed topography. The plan shall be to scale required in section 10-1812, and the plan shall include two-foot topographic contour intervals depicting existing and proposed topography. The plan shall be signed by a registered surveyor or engineer in the state.

(7) A plan showing existing and proposed vegetation and ground cover.

(8) A soil erosion and sedimentation control plan.

(Code 2015, § 10.82(9))

Sec. 10-1499. Environmentally sensitive areas—Slopes.

Lots located in an environmentally sensitive area, identified on the official city environmentally sensitive areas map as having a slope of 17.6 percent or greater shall conform to the following standards:

(1) All structures and impervious surfaces shall be set back a minimum of ten feet from the bluff line of a ravine or hillside. Bluff line, for the purposes of this article, shall be defined as a line along the top or bottom of a slope connecting the points at which the slope becomes less than 17.6 percent. The city council may approve of the construction of streets, trails,

sidewalks, and associated improvements within the required ten-foot setback and within an environmentally sensitive area. The following shall be standards for reviewing an encroachment:

a. The impact is associated with the construction of an access or roadway that was previously approved by the governing body.

b. The impact is associated with an access required as part of city standards or access management guidelines adopted in the Mankato Area Transportation and Planning Study.

c. The impact is associated with a street extension or realignment as adopted in the Mankato Area Transportation and Planning Study.

d. The impact is associated with the reconstruction or realignment of an existing roadway.

(2) All cut, fill, and development activities on a slope equal to or in excess of 17.6 percent may be permitted only as a conditional use. In addition to the submittal requirements for a conditional use permit application, a plan shall be submitted at a scale required in section 10-1812, and the plan shall include two-foot topographic contour intervals depicting existing and proposed topography. The plan shall be signed by a registered surveyor or engineer in the state.

(3) An approved public access is provided to the lot or development.

(Code 2015, § 10.82(10))

Sec. 10-1500. Environmentally sensitive areas—Wetlands.

(a) *Purpose.* This subsection is adopted to implement the Wetland Conservation Act of 1991 and the accompanying rules of the board of water and soil resources (Minn. R. ch. 8420).

(b) *Incorporated by reference.* This subsection incorporates by reference the Wetland Conservation Act of 1991 and Minn. R. ch. 8420. Terms used in this article which are defined in the act or the rules have the meanings given here.

(c) *Scope.* This article regulates the draining and filling of wetlands and parts of wetlands within the city. Conflicts with other official controls must be resolved in favor of providing the most wetland protection.

(d) *Procedures.*

(1) *Exemption and no loss determinations.* Under Minn. R. pts. 8420.0210 and 8420.0220, exemption and no-loss determinations shall be made by the zoning administrator. The property owner is responsible for submitting sufficient proof in order for the determination to be made by the zoning administrator. The zoning administrator may seek the advice of the technical evaluation panel on questions of wetland delineation and type. The decision of the zoning administrator is final unless it is appealed to the board of adjustments and appeals within 30 days of the decision.

(2) *Sequencing and replacement plan decisions.* Sequencing and replacement plan decisions under Minn. R. pts. 8420.0520 through 8420.0550 shall be treated as a conditional use and shall follow the procedures of article X, division 2, of this chapter. Additional notice and time requirements outlined in Minn. R. pt. 8420.0230 shall be followed. If the amount of wetland to be drained or filled is less than one-tenth of an acre, the sequencing determination shall be made by the zoning administrator.

(3) *Monitoring.* The zoning administrator shall ensure that the replacement plan monitoring and enforcement requirements of Minn. R. pts. 8420.0600 through 8420.0630 are fulfilled.

(4) *Wetland banking.* Wetlands may be restored or created within the city for the purposes of deposit in the Wetland Bank in accordance with Minn. R. pts. 8420.0700 through 8420.0760. The zoning administrator is responsible for approving bank plans, certifying deposits, and monitoring banked wetlands and enforcement under the rules.

(5) *Appeals and variances.* Decisions made under this article may be appealed to the board of water and soil resources under Minn. R. pt. 8420.0250 only after appeal to the board of adjustments and appeals. The board of adjustments and appeals may issue variances so long as the variances do not vary requirements of the act and rules.

(6) *Technical evaluation panel.* The city engineer shall serve on the technical evaluation panel. When reviewing sequencing and replacement plans, the planning agency shall receive the recommendation of the technical evaluation panel regarding the sequencing and replacement plan decision.

(7) *Wetland area and type delineation.* If required by the zoning administrator, a property owner seeking a no-loss and exemption determination shall be responsible for delineating the size and type of any wetlands located on their property. A property owner applying for a sequencing and replacement plan decision shall be responsible for delineating the size and type of any wetlands on their property. In addition, the property owner shall be responsible for retaining technical experts in the design of all replacement plans. All approved wetland delineations shall be done in accordance with the methodologies contained in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1989).

(e) *Setbacks.* All structures and other impervious surfaces shall maintain a 16.5-foot setback from the boundary of a wetland. The setback area shall be maintained with naturally occurring vegetation.

(Code 2015, § 10.82(11))

Sec. 10-1501. Environmentally sensitive areas—Woodlands.

(a) *Findings and purpose.*

(1) It is the finding of the city council that woodlands within the city, as defined by this section, constitute critical environmental resources for health, safety, and general welfare of the citizens of the city through, respectively:

a. The absorption of air pollutants;

b. The screening and reduction of noise, wind, heat, and visual clutter;

c. The filtering and redirection of precipitation to the saturated zone for use as potable water supply;

d. The reduction of wind and water erosion of soils, stabilization of slopes, and reduction of flood effects;

e. The maintenance of the general aesthetic and historic value of the city;

f. Provision of areas for natural recreation and education; and

g. Provision of unique and essential habitat for plant and animal residents of the city.

(2) The city additionally finds that the protection of environmental resources is a recognized matter of concern of the citizens of the state, as provided in M.S.A. § 116D.01 et seq.

(3) Therefore, the purpose of this section is to promote the health, safety, and general welfare of the citizens of the city through the protection of woodland environmental resources contained in properties where development or alteration of the property might damage or remove all or part of the woodland.

(4) It is the further intention of the city that this section shall function as an integral portion of the natural resource preservation ordinances of the city and shall complement other city ordinances relating to the preservation and management of environmentally sensitive areas.

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

City forester means the city official designated as city forester.

Conservation easement has the meaning assigned under M.S.A. § 84C.01.

Crown has the meaning assigned in the Forest Ecosystem Management Assessment Team report, "Forest Ecosystem Management" (1993); the upper part of a tree or other woody plant that carries the main system of branches and the foliage.

Drip line means an imaginary vertical line that extends downward from the outermost crown edge of a fully leafed tree to the ground.

Invasive plants means invasive terrestrial or aquatic plants designated by the state department of natural resources as listed in the publication "Minnesota Invasive Non-Native Terrestrial Plants," as published in 2003 and as amended.

Noxious weeds means plants designated by the state department of agriculture as noxious weeds as listed in Minn. R. 1505.0730 through 1505.0732.

Tree has the meaning assigned in U.S. Forest Service Resource Bulletin NC-158, "Minnesota Forest Statistics, 1990, revised" (1995); a woody plant usually having on or more perennial stems, a more or less definitely formed crown of foliage, and a height of at least 12 feet at maturity.

Woodland means a group of trees with a continuous, overlapping canopy and an average crown height of 15 feet or greater whose combined crowns, when fully leafed, cover a minimum of 80 of an area of one acre of more, and which is composed of a related canopy, understory, and ground vegetation.

(1) Portions of a woodland separated from the remainder by any act occurring after the date of implementation of this section shall continue to be considered a contiguous group of trees with the remainder unless determined to be no longer a woodland by the city forester.

(2) Woodland does not include a group of trees which would otherwise meet this definition but which is determined by the city forester to be degraded and not ecologically viable due to the existence or growth of invasive plants or noxious weeds.

Woodland area means the ground area contained within the drip lines of all trees contained in a woodland.

(1) Upon request of either the landowner or city, for the purpose of determining the woodland area of any specific woodland, the city forester may designate an official drip line inside the as-found drip line of that woodland on a subject property if the city forester finds that the edge of the woodland is degraded due to the existence or growth of invasive plants or noxious weeds.

(2) Upon request of the landowner, for the purpose of determining the woodland area of any specific woodland, the city forester may designate an official drip line outside the as-found drip lien of that woodland on a subject property if the city forester finds that the edge of the woodland is enhanced due to the existence or growth of ground vegetation or understory related to the woodland.

(c) *Exemptions.* The following activities are not subject to the further limitations of this section:

(1) Removal of trees or other vegetation from woodlands or portions of woodlands contained on any private property subject to the environmental review process of division 10 of this article where the activity for which the applicant is submitted will not materially affect the woodland contained on the property.

(2) Removal of trees or other vegetation from woodlands where such action is necessary to protect public health, protect property from damage, or to restore public order.

(3) Removal of dead, damaged, diseased, or infested trees or vegetation from woodlands where such action is determined to be reasonably necessary by the city forester or by the property owner, subject to the approval of the city forester or by the property owner, subject to the approval of the city forester, to protect the health of the woodland or surrounding trees, or where such trees or vegetation are public nuisances under section 11-112.

(4) Removal of trees or vegetation from woodlands as necessary for the provision of public utilities, provided such removal is the least damaging reasoned alternative and is accomplished in the reasonably least damaging manner.

(5) Removal of trees or vegetation from woodlands established and maintained for the purpose of nursery stock growing and licensed by the state department of agriculture.

(6) Removal of trees or vegetation from woodlands conducted in accordance with a woodland stewardship plan or forest stewardship plan approved by the state department of natural resources.

(7) Removal of trees or vegetation from woodlands when such trees or vegetation are noxious or are invasive plants.

(8) Any actions on a property subject to subsection (d)(2) of this section for which the applicant has completed the required woodlands examination, where no woodlands subject to this section were found, and for which the city has reviewed and accepted the examination summary.

(9) Any action by the city for the provision of streets, trails, sidewalks, or other essential public improvements if the action has been determined by the city council to be critical to the safety or general welfare of the citizens of the city and no other reasonable alternative is determined.

(10) Activities on lots that were previously approved by the city council for which a tree clearing or tree preservation plan was part of the approval, provided the activities conform to the approved plan.

(11) Activities on existing vacant commercial or industrially zoned lots within the city provided the lots were recorded as part of a subdivision and zoned commercial or industrial prior to the adoption of the ordinance from which this section is derived.

(d) *Applicability.*

(1) The provisions of this section shall apply to any woodlands contained wholly or partly within any city property or wholly or partly within any private property subject to the environmental review process of division 10 of this article. and not exempted above.

(2) The provisions of this section shall also apply to any woodlands contained wholly or partly within any private property for which an otherwise subject application under division 10 of this article. has been submitted to the city but which is not located within a previously designated sensitive area. The applicant for any such property shall examine the property to determine the presence on the property of any woodlands or portions of woodlands as defined in this section and shall submit a written summary of the examination with and at the time of application.

(3) The provisions of this section shall also apply to any act or combination of acts of land clearing or tree removal not exempted above, wherein such clearing or removal is planned to or may reasonably result in removal of:

a. Greater than 25 percent of the woodland area in existence at the date of implementation of this section or the date of latest subject area, whichever contains a greater area, of any woodland.

b. Any portion of a woodland located on a hillside or ravine slope of 17.6 percent or greater or within ten feet of the bluff line as defined under section 10-1499. Tree removal from a hillside or ravine slope, or within ten of the bluff line, shall be limited to

exempted activities listed in subsections (c)(2), (3), (6), and (7) of this section, upon review and approval by the city forester; and exempted activities listed under subsections (c)(4) and (9) of this section subject to the environmental review process of division 10 of this article.

c. Any portion of a woodland located in a wetland as defined under M.S.A. § 103G.005, subd. 19 as amended, and Minn. R 8420.0110, subpt. 52, incorporated by reference under section 10-1500.

(4) Any act or combination of acts meeting subsection (d)(3) of this section shall be deemed a substantial land alteration and subject to the permit requirements of section 10-1498 and the environmental review process of division 10 of this article.

(5) Where the provisions of this section may conflict with other city ordinances, the city forester shall review the conflict in company with the director of any other city department responsible for applying the conflicted section and shall recommend to the city council which provisions shall prevail.

a. Where the provisions of this section may conflict with the weed elimination provisions of section 14-157, this section shall prevail for any portion of a property within a woodland area.

b. Where the provisions of this section may conflict with the tree disease control requirements of chapter 11, article II, division 4 and the trimming and corner clearance requirements of section 14-154, this section shall not prevail.

(e) *Requirements.*

(1) No application for any action subject to subsections (d)(1), (2), or (3) of this section shall be approved by the city until the applicant has demonstrated compliance with subsection (e)(2) through (5) of this section.

(2) In addition to the submittal requirements specified elsewhere, the applicant for any action subject to this section and not exempt under subsection (c)(7) of this section shall prepare and submit a plan at a scale required in section 10-1812 showing the location and extent of all woodlands or portions of woodlands on the property and the impact of the applied-for action on the woodlands. An application containing multiple alternative actions shall be accompanied by an appropriate plan for each alternative.

(3) Upon application for a subject action, the applicant shall specify in the application show the subject action will be completed such that:

a. If the property contains an existing principal or main building, as defined in section 10-2, on the effective date of the ordinance from which this section is derived, not less than 60 percent of the woodland area contained within the subject property, in existence on the effective date of the ordinance from which this section is derived or the date of application, whichever contains a greater area, will be maintained in a natural state, to include the understory and ground vegetation.

b. If the property is vacant or is to be subdivided or resubdivided for the purpose of development, not less than 70 percent of the woodland area contained within the subject property in existence on the effective date of the ordinance from which this section is derived, or the date of application, whichever contains a greater area, will be maintained in a natural state, to include the understory and ground vegetation. Refer to subsections (c)(10) and (11) of this section for exemptions.

c. As part of the review and approval of proposals described in subsections (e)(3)a and b of this section, each mature tree removed from the woodland on the property, which removal is not exempted by subsection (c) of this section, shall be replaced at a minimum 2:1 ratio with a seedling or sprouting of at least two inch caliper diameter of the same species or other desirable species designated or approved by the city forester. Seedling or sprouting trees shall conform to ANSI Standard Z60.1-2004. Replacement may be on the subject property, other private property within the city or, if approved by the city forester, on city property. Any trees planted on the subject or other private property under this requirement shall be protected under the provisions of subsection (f)(5) of this section.

d. Reasonable efforts are made by all property owners to ensure that maintained woodland areas are contiguous with portions of the woodland outside of the subject property.

(f) *City forester review.* The city forester shall review each application within the time limits otherwise allotted to the city for the application under all other controlling provisions of this Code and state or federal laws. The city forester may refer applications to the environmental committee under division 10 of this article or other appropriate city agency for additional consideration. The city forester shall submit a recommendation to the planning commission or other appropriate agency of the city as to whether the application complies with the requirements of this section. In determining the application's compliance with this section, the city shall consider:

(1) The degree of compliance with subsection (e)(3)a, b, or c of this section; and

(2) The extent to which the applied-for action may be achieved with a minimum of woodland area clearing; and

(3) The desirability of preserving any specific portion of the subject woodland or woodlands due to its unique size, age, identity, or history; and

(4) The extent to which the woodland area to be cleared will be subject to additional environmental degradation as a result of the clearing, including erosion, stormwater runoff, and altered use; and

(5) The presence, proximity, and characteristics of any woodlands surrounding the application property and the effect of all subject clearing will produce on the aesthetic characteristics of the local area of the property and the health of the surrounding woodlands; and

(6) The likelihood, if any, that any portion of the subject woodland or woodlands will be subject in the reasonable future to the exemptions of subsection (c) of this section.

(g) *Methods.* The applicant may utilize any one or combination of the following methods to meet the requirements of subsection (e)(3)a or b of this section:

(1) Dedication of a conservation easement to the city encompassing all or portions of the woodland area. The conservation easement must specify the limitations on use of the woodland area applicable to the landowner, the access rights of the city to the easement, and any adjunct uses, including, but not limited to, recreational trails, specified for the conservation easement. This subsection shall not require the city to accept any easement which the city reasonably determines is detrimental to the health, safety, or general welfare of its citizens or the purpose of this section.

(2) Declaration and application of an enforceable deed covenant restricting the clearing and incompatible use of all or portions of the woodland area. The covenant must specify the limitations of use of the woodland area applicable to the landowner and create a responsible body for enforcement of the covenant if the property is to have multiple landowners. The covenant must specify a mechanism to ensure that the woodlands are protected from removal or damage irrespective of any agreed upon changes to the covenant by the responsible body or the landowners. This subsection shall not require the city to accept any covenant which the city reasonably determines is detrimental to the health, safety, or general welfare of its citizens or the purpose of this section.

(3) Retained possession through plat of all or portions of the woodland area by the applicant that such portions of the woodland area are not cleared or damaged. The applicant, as landowner, shall be responsible that the woodlands on the retained property are not cleared or otherwise damaged in trespass by the adjacent landowners.

(4) Sale or deed to the city of all or portions of the woodland area for protection as undeveloped or semi-developed recreational or conversation lands. This subsection shall not require the city to purchase or accept without compensation any lands.

(5) Any other action which the applicant can demonstrate to the city will reasonably protect the subject woodland areas in perpetuity and not subject the city to additional management burden or cost.

(h) *Implementation.*

(1) The applicant must ensure that the requirements of this section are complied with throughout any construction process and during any subsequent or simultaneous sale of the property or portions of the property. The applicant must ensure at least that:

a. All employees, contractors, and visitors to the subject property that may, through deliberate or inadvertent act remove or damage any portion of a subject woodland, receive documented instruction in the location of the subject woodland areas and the management practices the applicant has emplaced to protect those woodland areas; and

b. All subject woodland areas are clearly and securely marked prior to and throughout all construction with continuous fending of at least 48-inch height of sufficient strength and stability to remain vertical in all reasonable weather conditions; and

c. Any construction traffic, to include daily foot traffic and all vehicle traffic, through any subject woodland area is restricted to area provided with a minimum layer of 12 inches of wood chips or other cushioning material surfaced with plywood, chain link mesh, or other pressure-distributing surface.

d. All prospective and actual purchasers of any portion of the subject property received documented instruction in the location of the subject woodland areas, the management practices the applicant has emplaced to protect those woodland areas, and the provisions of this section.

(2) The city forester or any other staff designated by the city may enter the application property at any reasonable time to ensure the property's compliance with this section.

(3) Violation of any of the requirements of this section shall be cause for the rescission of any permit or approval issued by the city to the applicant under this section until such time as the city forester determines that the violation has been corrected.

(4) The city may require the applicant or responsible party to remediate any damage to subject woodland areas or failure to complete any of the affirmative requirements of this section caused by deliberate or inadvertent violation of any of the requirements of this section. The city may require any such remediation or action, whether by the applicant or any other party, to be completed under the direction and to the approval of the city forester. In lieu of such remediation or action, the city may assess the applicant or responsible party reasonably estimated or actual costs for such remediation or action and perform the remediation or action itself or through contract.

(5) The applicant or any other responsible party shall have the right to appeal any denial or negative action required by the city under this section to the city council and to the appropriate legal venue.

(6) In addition to the above, the enforcement provisions of section 10-2005 shall apply fully to this section.

(Code 2015, § 10.82(12))

Sec. 10-1502. Water retention areas.

Water retention areas or devices may be required for any new development projects creating new impervious surfaces of one acre or greater. The following activities are exempt from this section:

(1) Where the development project is a linear project, such as sidewalks, paths, or trails, or is reconstruction, repair, reconditioning, or resurfacing of existing roads or impervious surfaces.

(2) Where the plans for a project development site were approved by a local unit of government by a permit or in a preliminary or final plat approval process prior to August 25, 1993.

(Code 2015, § 10.82(13))

Sec. 10-1503. Aboveground storage and dispensing of flammable and combustible liquids.

(a) With the review and approval of the city's building official, fire marshal, and zoning administrator, aboveground storage of new and used crank case oil in tanks of up to 500 gallons is permitted in the CBD-C, CBD-F, B-1, B-2, B-3, PI, M-1, M-2, and airport zoning districts.

(b) With the review and approval of the city's building official, fire marshal and zoning administrator, aboveground storage of used flammable and combustible liquids (paint thinners, solvents, etc.) in tanks of up to 250 gallons is permitted in the M-1, M-2, and airport zoning districts.

(c) With the review and approval of the city's building official, fire marshal, and zoning administrator, aboveground standby fuel storage in tanks of up to 1,000 gallons is permitted in the CBD-C, CBD-F, B-1, B-2, B-3, PI, M-1, M-2, and airport zoning districts.

(d) Aboveground standby fuel storage in tanks exceeding 1,000 gallons may be allowed by conditional use permit in the CBD-C, CBD-F, B-1, B-2, B-3, PI, M-1, M-2, and airport zoning districts.

(e) Aboveground standby fuel storage in tanks of up to 1,000 gallons may be allowed by conditional use permit for institutional uses (hospitals, colleges, nursing homes, state department of transportation offices, churches, etc.) in the R-1, R-2, R-3, R-4, and OR zoning district.

(f) With the review and approval of the city's building official, fire marshal, and zoning administrator, dispensing of flammable and combustible liquids from one aboveground tank of up to 560 gallon capacity of Class I liquids (gasoline); and up to two tanks of not more than 1,000 gallon capacity per tank of Class II or Class III liquids (diesel fuel) is permitted in the CBD-C, CBD-F, B-1, B-2, B-3, PI, M-1, M-2, and airport zoning districts and for institutional uses in the R-1, R-2, R-3, R-4, and OR zoning districts.

(g) Commercial dispensing of flammable and combustible liquids from not more than three aboveground tanks of up to 6,000-gallon capacity per tank for Class I fuels (gasoline); and not more than three 10,000 gallon capacity per tank for Class II fuels (diesel) may be allowed by conditional use permit.

(h) Private dispensing of flammable and combustible liquids from aboveground tanks of up to 6,000 gallons per tank, with not more than three tanks may be allowed by conditional use permit in the CBD-C, CBD-F, B-1, B-2, B-3, and PI zoning districts.

(i) With the review and approval of the city's building official, fire marshal, and zoning administrator, private dispensing of flammable and combustible liquids from aboveground tanks of up to 6,000 gallons per tank, with not more than three tanks is permitted in the M-1, M-2, and airport zoning district.

(j) All tanks used for aboveground storage or dispensing of flammable and combustible liquids must be self-contained and self-diking or properly diked and installed as specified by the building official and fire marshal.

(k) With the review and approval of the building official and fire marshal, temporary aboveground storage or dispensing of flammable and combustible liquid tanks associated with a construction or reconstruction project is permitted.

(l) With the review and approval of the building official, fire marshal, and zoning administrator, outside storage of up to 60-gallon containers with not more than three containers is permitted in the M-1, M-2, and airport zoning districts.
(Code 2015, § 10.82(14))

Sec. 10-1504. Essential service utility structures and facilities.

This section addresses those essential utility structures and facilities which cannot be located in an existing utility easement because of size and design. The structure must not be designed or intended to be occupied other than for general maintenance or service.

(1) A parcel exclusively used for an essential service utility structure and facility is exempt from the minimum area and width requirements of this article. In no case shall the creation of a parcel result in another parcel which is substandard according to the provisions of this article. All parcels shall have direct access to a dedicated right-of-way.

(2) Front, rear, and side yard building setbacks.

a. Except as noted below, a parcel used for essential service utility structures and facilities shall have a front yard building setback as required by the zoning district in which the parcel is located.

b. In the PI, M-1, and M-2 districts, a parcel used for essential service utility structures and facilities shall have a front yard building setback of 25 feet measured from the curb. In no case shall the front yard building setback be less than 15 feet from the property line.

c. In all districts, a parcel used for essential service utility structures and facilities shall provide a side yard building setback of not less than six feet and a rear yard building setback of not less than six feet.

(3) An essential service utility structure and facility located in a residential district shall be screened from adjacent residential uses.

(4) An essential service utility structure or facility shall conform to the height provisions of the underlying zoning district.

(5) All parking areas and drives shall be hard surfaced and conform to the standards set forth in this article. Parking areas shall only be used for the temporary parking of maintenance and utility vehicles. Parking is permitted in the required front yard building setback. Fifty percent of the front yard area must be reserved for landscaping, exclusive of parking.

(6) Any reuse of the parcel other than for an essential service utility structure and facility shall conform to the provisions of this article.

(Code 2015, § 10.82(15))

Sec. 10-1505. Special requirements for recyclable material collection.

The following special requirements shall apply to recyclable material collection conducted in the B-1, B-2, and B-3 zoning districts:

(1) The use shall be accessory to an existing use.

(2) The collection area shall be fenced and screened from any abutting development and public street or way by ornamental fencing or screen planting of 80 percent opacity. Such ornamental fencing or screen planting shall be not less than eight feet in height.

(3) Collection activity equipment shall consist of no more than one vehicle to haul the collected material and a scale to weigh the collected material. However, in cases of aluminum collection, a metal separator and compactor may be used, provided such equipment is totally contained within the collection vehicle. No shredding of material shall occur at the collection site. The only piece of equipment that may be located outside of a vehicle is the aforementioned scale.

(4) Location of the collection area on the site shall not impede access to the site, hinder normal vehicular flow or use excessive parking spaces dedicated to customer parking. The collection area shall not be within 200 feet of an adjacent commercial or principal use building or 300 feet of a residential dwelling.

(5) All garbage and debris must be cleaned daily from the recyclable material collection area.

(6) The collection activity equipment shall be kept in a neat and clean manner and any sign promoting the recycling activity shall be part of the collection area.

(Code 2015, § 10.82(16))

Sec. 10-1506. Indoor and outdoor firing ranges.

(a) This section addresses performance standards for target or testing ranges at which firearms are discharged. Indoor firing ranges are listed as conditional uses in the B-2 and B-3 districts, and are listed as permitted uses in the PI, M-1, and M-2 districts. Outdoor firing ranges may be allowed as a conditional use in the M-2 district. The use of property for an indoor firing range shall conform to the following standards:

(1) The firing range shall not be located on any zoning lot which is adjacent to a residential district.

(2) The use, occupancy, and construction of the building shall conform to the state building code.

(3) The use shall conform with the applicable state pollution control agency, environmental protection agency, and OSHA standards for indoor ventilation, emissions into the atmosphere, indoor sound levels, lead containment, and outside noise standards.

(4) The design and construction of the firing range shall totally confine all ammunition rounds within the building and in a controlled manner. The design and construction of the firing range shall be certified by a registered engineer in the state. The certified plans shall include the specifications and construction of the bullet traps, ceilings, exterior and interior walls, and floors. The certified plans shall state what type and caliber of ammunition the range is designed to totally confine.

(5) No ammunition shall be used in the range that exceeds the certified design and construction specifications of the firing range.

(6) A written log of range users shall be maintained by the range operator. The log shall include the name and address of the range user, and the time and date the user was in the range. The name and address of the user shall be verified by photo identification.

(7) An alarm system, cut wire protected, shall be supplied to provide security for the general premises.

(8) Firearms which are stored on the premises shall be stored in a vault when the range is closed for business. An alarm system, independent of the general alarm system and cut wire protected, shall be supplied for the firearm vault.

(9) Ammunition shall not be stored in the firearm vault.

(10) On site supervision shall be supplied at all times by an adult with credentials as qualified range master.

(11) An outside security plan for the general grounds shall be submitted to the city manager or designee for review and approval.

(12) The transport of firearms on the premises shall conform to state law.

(13) Minors shall not be allowed in the range unless accompanied by an adult at all times. This provision shall be interpreted to prohibit minors from participating in a firearm safety class which is supervised by an adult instructor.

(14) The council reserves the authority to review or modify the performance standards for the range.

(b) The use of property for an outdoor firing range shall conform to the following:

(1) Outdoor firing ranges may only be operated by a public agency or governmental unit for the purpose of training law enforcement or federal or state military personnel.

(2) Only firearms shall be discharged at the range. No cannons, artillery, or rockets shall be discharged.

(3) The range shall be designed to baffle noise and provide protection from accidental or stray ammunition discharge for surrounding properties.

(4) The property shall be enclosed by a security fence at least six feet in height.

(5) The use shall comply with the outside noise standards and lead management requirements of the state pollution control agency.

(6) The operation of the range shall be limited to the hours of 7:00 a.m. to 10:00 p.m.

(Code 2015, § 10.82(17))

Sec. 10-1507. Extraction, stockpiling, and processing of minerals and materials.

(a) *Purpose.* Regulation of the extraction of minerals and materials is intended for continued use of available resources in the city while providing for reclamation of land disturbed by mining to encourage productive use of the land, including, but not limited to, the planting of forests, natural grasses or; the enhancement of natural wildlife and aquatic habitats; the establishment of recre-

ational, residential or industrial sites; the conservation, development and management of natural resources and maintenance or improvement of the tax base of the city while protecting the health, safety and general welfare of the city. Excavations for the purposes of residential, commercial or industrial development and land alterations listed in article X, division 2, of this chapter shall be exempt from the provisions of this section.

(b) *Conditional uses.*

(1) No person, firm or corporation shall hereafter engage in the mining or processing of sand, gravel, limestone or other minerals on any land within the city without first obtaining a conditional use permit as regulated in article XI, division 3, of this chapter.

(2) Conditional use permit. In addition to the conditional use permit application, the following information shall be provided:

a. A description of the proposed alterations and future use of the property.

b. The beginning and ending dates of proposed land alteration.

c. Plans showing existing and proposed topography, at two-foot contours. The plan shall be signed by a registered surveyor or engineer in the state.

d. Plans showing existing and proposed vegetation and ground cover.

e. A soil erosion and sedimentation control plan.

f. A reclamation plan as regulated in this section.

(c) *Reclamation plan.*

(1) A reclamation plan shall be prepared for the planned after-use of affected areas, describing the nature and extent of reclamation activity. A detailed map at a scale of one-inch equals 100 feet or less shall be included showing future land uses, vegetation and proposed contours. A written statement shall be included containing an explanation of proposed depth of topsoil, type of fill and a timeline for reclamation activities.

(2) Proposed grading, back-fill areas of banks shall be covered with sufficient topsoil to provide for vegetation. When back sloping is proposed, the rate of slope shall be not less than three feet horizontal to one foot vertical. Proposed banks shall be seeded, except where such bank provides a sand beach area to a proposed recreational lake.

(3) In the event that the operator finds characteristics of the mining area differing from that previously determined, changes may be made to the original reclamation plan by mutual consent of the operator and the city council.

(4) Any mining operation legally commenced prior to the enactment of this article without an approved reclamation plan shall submit a reclamation plan to the city council for review and approval within five years of the date of the enactment of this article.

(5) Clearing of the mining site shall conform to the development and reclamation plan. Existing vegetation shall remain in a natural state whenever possible.

(6) Upon replacement of the topsoil, trees, shrubs, grasses or other ground cover shall be planted upon the areas to prevent erosion, in accordance with the approved reclamation plan.

(d) *Operational standards.* Each person, firm or corporation to whom a conditional use permit for mining operations is issued may engage in mining upon lands as described in the license. Mining operations shall be conducted in compliance with applicable county, state and federal laws and subject to the following regulations:

(1) *Hours of operation.*

a. The general operation of the mining may be conducted between the hours of 6:00 a.m. and 7:00 p.m., Monday through Saturday. The excavation, drilling, hauling, sawing and other physical activities of the quarry cannot proceed until one hour after the initial start time.

b. The hours of operation may be adjusted by the city council as part of the conditional use permit.

(2) *Screening and berming.*

a. Adequate screening through the use of plantings, fencing or berms shall be provided adjacent to all public roadways and adjacent properties, sufficient to screen the operation from view. Screening adjacent to residential properties shall completely screen the operation from view eight feet above grade level.

b. Existing vegetation shall be preserved, maintained and supplemented as required for the depth of the setback as required in this section. Berming and screening may be located within the required setback.

(3) *Stormwater runoff.* The necessary stormwater discharge permits shall be obtained.

(4) *Access management.*

a. All access points to the mining operation shall be subject to approval by the city.

b. All access points shall be located to avoid the routing of vehicles over primarily residential streets. Materials deposited onto public roadways shall be removed as per chapter 8, article II.

c. All access points abutting a public right-of-way shall be hard surfaced with asphalt or concrete a minimum distance of 100 feet from the actual public roadway.

(5) *Air quality.*

a. The necessary air emissions permits shall be obtained from the state pollution control agency.

b. Haul roads within the mine shall be sprayed with dust suppressants as recommended by the state pollution control agency, as needed, to control fugitive dust.

c. Dust and noise producing loading or processing shall be conducted no closer to the property line than the required setback as denoted in section 10-1495.

(6) *Noise control.* Noise levels shall not exceed state pollution control agency noise pollution control rules, Minn. R. ch. 7030 for residential areas.

(7) *Blasting.*

a. All blasting shall be conducted by licensed blasting personnel and shall comply with all rules and regulations as outlined by the city, unless modified herein.

b. A blasting permit shall be required as per chapter 8, article II.

c. Blasting may be conducted between the hours of 9:00 a.m. to 3:30 p.m., Monday through Friday. In situations of failed blasts due to malfunction or weather, allowance shall be made to permit the blast outside the time limitations; however, blasting shall not take place later than permitted operational hours Monday through Friday.

d. A blasting program shall be submitted and provide all the necessary data to ensure compliance with applicable standards in conformance with exhibit A to the ordinance from which this division is derived, while also providing usable data to help predict future blast effects on all homes in the area. Data to be collected shall include, but not be limited to, waveform analysis, peak particle velocities (PPV), frequencies and developing frequency spectrums. Data gathered for each blasting event shall be witnessed, reviewed, analyzed for compliance parameters and signed by a licensed blaster. If upon such review, the data indicates a violation, then corrective actions shall be taken, such as reducing blasting charge/delay or other measures as deemed necessary to ensure compliance. Detailed blasting records shall be kept by mining operators. These records are to locate where each blast is taking place, delay pattern, and the identification, direction and distance to the closest non owned or permitted structure. Topographic maps shall be used to locate blasts and structures.

(e) *Setback requirements.* Mining operations shall conform to setback requirements listed herein:

(1) Not less than 100 feet from property located in zoning district where such operations are not permitted.

(2) Not less than 200 feet from any residentially zoned property.

(3) Not less than 50 feet from any adjoining property without the written consent of the owner of such property.

(4) Not less than 100 feet from any public right-of-way.

(5) Not less than 100 feet from the ordinary high water level of any public water.

(6) No mining shall take place within platted city rights-of-way without a license to encroach from the city council.

(7) Not less than ten feet from environmentally sensitive areas.

(f) *Bond requirements.* A performance bond or other financial security in the amount of ten percent of the total cost of a completed reclamation plan shall be secured from the property owner or mining operator along with a waiver of assessment for the city to undertake work should the property owner or mining operator fail to do so. If and when rehabilitation of land in accordance with the reclamation plan is certified by the city council, the bond shall be returned.

(g) *Exceptions.* Any mining operation commenced prior to the enactment of this article shall be allowed to continue under the preexisting operating parameters if valid documentation is provided to the city that the operation is legally allowed. Valid documentation shall include, but not be limited to, aerial photographs, landownership documentation or prior documented city approvals. Expansions beyond the approved boundaries shall require a conditional use permit pursuant to section 10-1492. All mining operations shall be required to comply with the city's blasting standards as outlined in section 10-1494. Such operation shall submit a reclamation plan to the city council for review and approval as required in this section.

(h) *Compliance.* Upon failure by the person, firm or corporation to whom a conditional use permit for mining operations is issued, to fully comply with the provisions contained herein, notice shall be given to the permit holder setting forth those provisions of this section being violated, and the time and place of a hearing before the city council to consider such violation shall be set. Permits may be suspended or terminated based upon the findings of the city council at such hearing.
(Code 2015, § 10.82(18))

Sec. 10-1508. Heritage preservation.

(a) *Declaration of public policy and purpose.* The city hereby declares as a matter of public policy that the preservation, protection, perpetuation, and use of areas, places, buildings, structures, lands, districts, and other objects having a special historical, cultural, or aesthetic interest or value is a public necessity, and is required in the interest of public health, prosperity, safety, and welfare of the people of the city. The purposes of this section are to:

(1) Safeguard the heritage of the city by preserving sites and structures that reflect elements of the city's cultural, social, economic, political, engineering, or architectural history;

(2) Protect and enhance the city's attraction for residents, tourists, and visitors, and serve as a support and stimulus to business and industry;

(3) Enhance the economic viability of heritage preservation landmarks and districts through the protection and promotion of their unique character;

(4) Enhance the visual and aesthetic character, diversity, and interest of the city;

(5) Foster civic pride in the beauty and notable accomplishments of the past; and

(6) Promote the use and preservation of historic landmarks and districts for the educational and general welfare of the people of the city.

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

Heritage preservation district means a contiguous collection or group of lands, parcels, sites, structures, buildings, or objects that is determined to be historically, culturally, or architecturally significant as a whole and has been locally designated as a heritage preservation district pursuant to subsection (c)(1) of this section.

Heritage preservation guidelines means the established criteria by which any proposed changes, including architectural or site modifications, shall be judged.

Heritage preservation landmark means any individual property, parcel, place, building, structure, work of art, or other object that has been determined to be historically, culturally, or architecturally significant and has been locally designated as a heritage preservation landmark pursuant to subsection (c)(1) of this section.

National Register of Historic Places means the nation's official list of properties worthy of preservation designated by the federal department of the interior, national park service. Nominations to this list of properties within the state are made through the auspices of the state historic preservation officer, state historical society.

(c) *Powers and duties of the heritage preservation commission.* The heritage preservation commission established pursuant to section 2-35 (hereinafter, commission) shall have the following powers and duties:

(1) *Designation of heritage preservation landmarks and districts.*

a. *Report.* Prior to recommending a site or district to the city council for designation, amending a designated site or district, or nominating a site or district to the National Register of Historic Places, an investigation and report on the historical, cultural, and architectural significance of the buildings, structures, sites, or objects proposed for designation shall be made. Such report shall also attempt to determine the economic status of the property or properties by providing such information as assessed value, recent real estate transactions, and other appropriate data. The commission may conduct this investigation and prepare the report or may require a person seeking such designation to conduct the investigation and prepare the report.

b. *Criteria for designation.* The commission shall recommend the designation of heritage preservation landmarks and districts only when the property is found to meet one or more of the following criteria:

1. It has character, interest, or value as part of the development, heritage or cultural characteristics of the city, county, state, and country.

2. Its location was a site of significant historical event.

3. It is identified with a person or persons who significantly contributed to the culture or development of the city, state, and country.

4. It embodies a distinguishing characteristic of an architectural or construction type.
5. It is identified as the work of an architect or master builder whose individual work has influenced the development of the city or state.
6. It embodies elements of architectural design, detail, materials, or craftsmanship that represent significant architectural innovation.
7. Its unique location or singular physical characteristics represent an established and familiar visual feature of a neighborhood, community, or the city as a whole.

c. *Planning commission review.* The commission shall receive the comments of the planning commission regarding any proposed heritage preservation landmark or district prior to forwarding its recommendation to the city council. In its review and recommendation, the planning commission shall consider any such designation's potential effects on the surrounding neighborhood, economics, environment, and other planning considerations. The comments shall become part of the official record and be submitted as part of the commission's report to the city council.

d. *Communication with the state historical society.* A copy of the commission's report on any proposed designation for a heritage preservation landmark or district, including boundaries, shall be sent to the state historic preservation officer for review and comment in accordance with M.S.A. § 471.193, subd. 6, including any amendments thereto. Any comments made by the state historic preservation officer regarding a proposed designation must be received and forwarded to the city council prior to final designation.

e. *Heritage preservation commission hearings.* Prior to the commission recommending to the city council the designation of any heritage preservation landmark or district, the commission shall hold a public hearing and seek the recommendation of all concerned citizens. Prior to such hearing, the commission shall cause to be published in the official newspaper of the city notice of the hearing at least ten days prior to the date of the hearing and notice of the hearing shall be sent to all owners listed on the current county records of property proposed to be designated a heritage preservation landmark or district.

f. *Communication with city council.* If the commission recommends to the city council that a landmark or district be designated for heritage preservation, the commission shall transmit to the city council a complete report on the recommended heritage preservation landmark or district. Such communication shall include the initial investigation report, comments made by the planning commission, required comments by the state historic preservation office and the proposed heritage preservation guidelines.

g. *City council designation.* The city council may by ordinance designate a heritage preservation landmark or district. Prior to such designation, the city council shall hold a public hearing, notice of which shall be published in the official newspaper of the city at least ten days prior to the day of the hearing, and the notice of the hearing shall be

sent to owners of all property proposed to be designated as a heritage preservation landmark or district. As part of the hearing, the city council shall consider the testimony of the property owner of the proposed heritage preservation landmark or district.

(2) *Review of construction and demolition activity.*

a. *Type of activity.*

1. Except as provided in subsection (c)(3) of this section, the commission shall review and approve or disapprove of construction and demolition activities, including all street and utility activities, within any heritage preservation landmark or district. In addition, the commission shall review and approve or disapprove the issuance of city permits to do any of the following in a heritage preservation landmark or district:

(i) Remodel, repair, or alter in any manner that will change the exterior appearance, including the installation, modification or removal of exterior signage;

(ii) New construction, including parking facilities;

(iii) Move a building;

(iv) Change the nature or appearance of a designated heritage preservation landmark, building or district, including permanent landscaping features;

(v) Demolish any building, structure, or portion thereof.

2. The performance of any of the foregoing activities without a permit issued in accordance with the requirements of this section, or the performance of any of the foregoing activities in a manner contrary to the conditions, restrictions, or limitations of a permit issued in accordance with the requirements of this section, shall constitute a violation of this section.

b. *Permit application and plans.* Every application for any type of permit for exterior renovation in relation to a property designated as a heritage preservation landmark or district shall be accompanied by detailed plans or sketches for the proposed work to be done. A copy of the application and plans or sketches submitted therewith shall be immediately referred by the city's zoning administrator to the commission. The zoning administrator shall not issue permits in regard to an application until receiving written approval from the commission, subject, however, to subsections (c)(2)c, f, and g of this section.

c. *Commission review.* The commission may, but is not required to, delegate to a subcommittee of the commission, or to a designated city official, its power to review and recommend approval or denial or permit applications, such recommendation to be based on the proposed action's compliance with the adopted heritage preservation guidelines. The commission shall review the permit application and such plans as were submitted therewith and the recommendation of its subcommittee or designated official if applicable and shall render its decision thereon as a written order to the zoning administrator. The zoning administrator shall not issue any approved permit until after the ten-day appeal period, as provided for in subsection (c)(2)e of this

section. In the case of a denial of the requested permit, the commission shall furnish the applicant with a copy of any recommendations for changes necessary to be made before the commission will reconsider the permit application.

d. *Findings.* All decisions of the commission with respect to construction and demolition activity shall be based on explicit findings which are in accordance with the adopted heritage preservation guidelines for each individual heritage preservation landmark or district and the secretary of the interior's standards of rehabilitation.

e. *Appeal to city council.* The commission, in any written order denying a permit application, shall notify the applicant of the appeal procedures provided herein. The permit applicant or any party aggrieved by the decision of the commission shall, within ten days of the date of the commission's written order and decision, have a right to appeal such order and decision to the city council. Such appeal shall be addressed to the city council and submitted to the zoning administrator. Two copies of a notice of appeal and statement of reasons setting forth the grounds for the appeal shall be submitted by the appealing party. The zoning administrator shall transmit one copy of the notice of appeal and statement to the city council and one copy to the commission. The city council may modify or overrule the commission's decision, but only if the project is found to be consistent with the state Secretary of the Interior's recommended standards for preservation projects.

f. *Commission's failure to act on permit application.* If, within 60 days of receipt of the permit application by the commission, it has neither approved nor denied the permit application, the applicant may request that such plans and permit application be reviewed by the city council, and if approved by the city council, and if all other requirements of the city have been met, the zoning administrator shall issue a permit for the proposed work.

g. *Emergency repair.* In emergency situations where immediate repair is needed to protect the safety of the structure, a neighboring structure, or any persons, the zoning administrator may, without commission action, approve of only those items needed to ensure safety. In the case of a permit issued pursuant to this subsection, the zoning administrator shall require that such repairs be made in conformance with the federal Secretary of the Interior's recommended standards for historic preservation projects and adopted heritage preservation guidelines for the landmark or district to the extent possible. In addition, the zoning administrator shall immediately notify the commission of the action and specify the facts or conditions constituting the emergency situation.

h. *Building code enforcement.* One purpose of this section is to encourage the sensitive rehabilitation, restoration, stabilization or preservation of historic buildings throughout the city. These rehabilitation and preservation efforts should provide for the upgrading and maintenance of the safety features of the building or structure to provide a practical level of safety to the public and surrounding properties. While ensuring this increased level of public safety, the commission shall be open to acceptable alternative solutions and alternative compliance concepts, where practical, that will permit the

continued use of existing buildings and structures without creating overly restrictive financial burdens on owners or occupants. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure required by this Code.

i. *Priority of regulations.* To the extent that this section or any ruling or requirement of the commission conflicts with any other provision of this Code or applicable state, federal, or local rules or regulations, including building and fire codes, the following shall apply:

1. All state, federal, or local rules or regulations which relate to safety issues and the preservation or protection of life or property shall take priority over any conflicting provision in this section or ruling or requirement of the commission; and

2. As to nonsafety-related regulations of this article, the same may be modified through the variance process set forth in this article.

(3) *Exception to requirement of commission review.* If the zoning administrator determines that a permit application is for ordinary repair or maintenance, or for alteration, change, restoration, color, or removal of any exterior architectural feature that does not involve significant changes in the architectural or historic value, style, general design or appearance of the building or structure, the zoning administrator may, within seven days of receipt of the application, tentatively approve the application and forward a copy thereof to the chairperson of the commission, or to the vice-chairperson if the zoning administrator is aware that the chairperson is not available. The chairperson or vice-chairperson of the commission shall, within three business days, either approve the zoning administrator's decision or call for a meeting of the commission to consider the application. If such a meeting is called, the provisions of subsection (c)(2) of this section shall apply. If the chairperson or vice-chairperson approves the application or does not take any action within three business days, the application shall be deemed to be approved by the commission, and the zoning administrator may notify the applicant of the approval of the application. Approval of an application under this provision shall not affect the obligation to comply with the standards required by this section.

(4) *Additional powers and duties of the commission.* The commission shall have the following powers and duties in addition to those otherwise specified in this section:

a. The commission shall conduct a continuing survey of all areas, places, buildings, structures, or similar objects in the city which the commission, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as heritage preservation landmarks or districts.

b. The commission shall work for the continuing education of the citizens of the city with respect to the historic and architectural heritage of the city. It shall keep current and public an official list of designated heritage preservation landmarks and districts.

c. Upon prior approval by the city council, the commission may retain the services, on a permanent or part-time basis, of technical experts and other persons as may be required to perform the commission's duties.

d. The commission shall have authority to solicit gifts and contributions to be made to the city, and to assist in the preparation of applications for grant funds to be made to the city for the purpose of heritage preservation.

e. The commission may recommend to the city council, after review and comment by the city planning commission, that certain properties eligible for designation as heritage preservation landmarks or districts be acquired by gift, negotiation, or other legal means.

f. Upon final designation of a heritage preservation landmark or district by the city council, the commission shall adopt heritage preservation guidelines specific to the landmark or district. Such guidelines shall detail allowable architectural or site modifications, essential features to be retained, and any other criteria by which future proposals for modifications shall be judged. These guidelines are intended to provide assurance to owners of properties within heritage preservation landmarks or districts that any permit review process will be based on clear and objective standards rather than the taste of individual commission members.

g. The commission may nominate a heritage preservation landmark or district to the National Register of Historic Places, but only with the consent of the city council.

h. The commission shall make an annual report to the state historic preservation officer by October 31 of each year.

(d) *Violations.* An owner or occupant of any area, place, building, structure, or other object within a locally designated heritage preservation landmark or district, who violates any provision of this section, shall be guilty of a petty misdemeanor. Any person who assists in the commission of a violation of this section shall be guilty of a petty misdemeanor. Each day an owner or occupant of any area, place, building, structure, or object within a heritage preservation landmark or district allows any work to be performed on any area, place, building, structure or other object in violation of this section shall constitute a separate violation of this section and will be punishable as such. Any remodeling, repairing, altering, or construction activity of a heritage preservation landmark or district in violation of this section is hereby declared a nuisance. The imposition of the penalties herein prescribed shall not prevent the city from taking appropriate action or proceeding to prevent unlawful alteration of the building, district, or site in question. Such action may include restraining, correcting, and abating the violation.

(e) *Filing of documents.*

(1) The office of the zoning administrator shall keep at least one copy of all studies, reports, recommendations, decisions and heritage preservation guidelines developed by the commission and city council. In addition, the zoning administrator shall maintain an official list of all locally designated heritage preservation landmarks and districts and shall forward the same to the state historic preservation officer. The zoning administrator shall also maintain an up-to-date copy of the U.S. Secretary of the Interior's recommended standards for historic preservation projects.

(2) The heritage preservation commission is designated as the repository for at least one copy of all plans and reports required under subsection (c) of this section. This information shall be available to the public for inspection during normal business hours.

(f) *Recording heritage preservation sites.* The office of the zoning administrator shall record or file with the county recorder the legal description of all properties designated as heritage preservation landmarks or districts by the city.
(Code 2015, § 10.82(19))

Sec. 10-1509. Designated heritage preservation landmarks and districts.

Pursuant to the procedures set forth in section 10-1508, the following parcels are designated as heritage preservation landmarks or heritage preservation districts:

(1) Heritage preservation landmarks:

a. First Presbyterian Church, 220 East Hickory Street (lots 6 and 7, block 28, in the city).

b. Stahl House, 301 North Riverfront Drive (lot 5, block 17, in the city).

c. Kenney House/Tacy Kelly's House, 332 Center Street (part of lots 7 and 8, block 28, Warren's Third Addition).

d. Maud Hart Lovelace House/Betsy Ray's House, 333 Center Street (lot 8, block 27, Warren's Third Addition).

e. The Hubbard House, 606 South Broad Street (Warren's Addition-1884 Sanborn Maps-Warren Street Subdivision).

f. The Blue Earth County Courthouse, 204 South 5th Street (East 80 feet of lot 8 and the South ten feet of lot 7, block 28, Warren's Third Addition Ward 4, Precinct 6).

g. Eberhart House, 228 East Pleasant Street (lot 13, block 20, Warren's Second Addition).

h. Highland Park, 950 Warren Street (block 1, Coy's Addition).

i. Lincoln Park, 200 Lincoln Street (To wit fractional block of 14 in Warrens Addition to the city).

j. Pioneer Park, 1400 N. 6th Street (lot 1, block 16, Randall's Addition, except the southerly 66 feet thereof).

k. Reconciliation Park, 100 N. Riverfront Drive (Reconciliation Park, North Minnesota River Trail Subdivision).

l. Tourtellotte Park, 300 W. Mabel Street (Southerly 18 feet of lots 8 and 9 of block 22, block 23, block 24, block 30 and block 31, and lots 1, 2, 3, 4, and 5 of block 34, Duke's Second Addition).

m. Washington Park, 215 N. fourth Street (lots 1, 2, 3, 4, and 5, in block 46, in the town according to the recorded plat thereof made by Elias D. Bruner, and being block 66, according to the recorded plats of the town made by John J. Everett and A.D. McSweeney, lots 1, 2, 3, 4 and 5, in block 65, in the town according to the recorded plat

thereof made by A.D. McSweeney the same being the north westerly one-half of block 65, in the town according to the recorded plat thereof made by John J. Everett, and being the north-westerly one-half of Market Square in the town according to the recorded plat thereof made by Elias D. Brunner, and sometimes called block 47, according to the plat, for a public park only to be always open to the public without changes, under regulations by the common council of the city).

n. First National Bank, 229 S. Front Street (lot 5, block 13, Bruner's Plat).

o. Wenzl Huttl Tailor Shop, 329 N. Riverfront Drive (Northerly 22 feet of lot 1, block 17, except the rear or Easterly 34 feet of the Northerly 22 feet of lot 1, block 17, Map of Mankato, Blue Earth County, M.T.).

p. Carnegie Library, 120 S. Broad Street (lots 7 and 8, block 27, in the city).

q. Mankato Clinic Building, 227 E. Main Street (lot 10, block 27, in the city).

(2) Heritage preservation districts: No heritage preservation districts have been established by the city council.

(Code 2015, § 10.82(20); Ord. of 10-13-2008; Ord. of 5-23-2011; Ord. of 6-27-2011; Ord. of 5-14-2012; Ord. of 8-12-2013; Ord. No. 15-0323-3, 3-23-2015; Ord. No. 16-0208-2, 2-8-2016; Ord. No. 16-0926-13, 9-26-2016; Ord. No. 18-0226-2, 2-26-2018)

Secs. 10-1510—10-1536. Reserved.

DIVISION 3. ADULT USES

Sec. 10-1537. Definitions.

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

Adult uses includes adult bookstores, adult motion picture theaters, adult motion picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public.

(1) Specified anatomical areas:

a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breasts below a point immediately above the top of the areola.

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(2) Specified sexual activities:

a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexually relationship, and any of the following sexual-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

b. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence.

c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation.

d. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast.

e. Situations involving persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons.

f. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being.

g. Human erection, urination, menstruation, vaginal or anal irrigation.

Adult use body painting studio means an establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.

Adult use bookstore means a building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public extending any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Adult use cabaret means a building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.

Adult use companionship establishment means a companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult use conversation/rap parlor means a conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult use health/sport club means a health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult use hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult use massage parlor, health club means a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult use mini-motion picture theater means a building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult use modeling studio means an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult use motion picture arcade means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult use motion picture theater means a building or portion of a building with a capacity of 50 or more persons used for presenting material is such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult use novelty business means a business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designated for sexual stimulation.

Adult use sauna means a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult use steam room/bathhouse facility means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult use, accessory, means a use, business, or establishment having ten percent or less of its stock in trade or floor area allocated to, or 20 percent or less of its gross receipts derived from movie rentals or magazine sales.

Adult use, principal, means a use, business, or establishment having more than ten percent of its stock in trade or floor area allocated to, or more than 20 percent of its gross receipts derived from, any adult use.
(Code 2015, § 10.83(1))

Sec. 10-1538. Purpose.

The nature of adult uses is such that they are recognized as having adverse secondary characteristics, particularly when they are accessible to minors and located near residential property or related residential uses such as schools, day care centers, libraries or parks. Furthermore, the concentration of adult uses has an adverse effect upon the use and enjoyment of adjacent areas. The nature of adult uses requires that they not be allowed within certain zoning districts, or within minimum distances from each other or residential uses. Special regulation of adult uses is necessary to ensure that the adverse secondary effects would not contribute or enhance criminal activity in the area of such uses nor will it contribute to the blighting or downgrading of the surrounding property and lessening of its value.
(Code 2015, § 10.83(2))

Sec. 10-1539. General provisions.

Adult uses as defined in this article shall be subject to the following general provisions:

(1) Activities classified as obscene are not permitted and are prohibited. In no instance shall the application or interpretation of this article be construed to allow an activity otherwise prohibited by law.

(2) Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

(3) An adult use which does not qualify as an accessory use pursuant to section 10-1541 shall be classified as an adult use, principal.

(Code 2015, § 10.83(3))

Sec. 10-1540. Principal uses.

(a) Principal adult uses shall be a permitted use in the B-2 and M-1 districts, subject to the location criteria outlined in section 10-1539(2).

(b) Principal adult uses shall be located at least 350 radial feet, as measured in a straight line from the closest point of the property line of the building upon which the principal adult use is located, to the property line of:

(1) A zoning district in which residential uses are specifically listed as a permitted or conditional use.

(2) A licensed day care center.

(3) A public or private educational facility classified as an elementary, junior high or senior high.

(4) A public library.

(5) A public park.

(6) Another adult use, principal.

(7) Any church or church related organization.

(c) No principal adult use shall be located in the same building or upon the same property as another adult use, principal. This limitation does not apply to any business or establishment that contains more than one Principal adult use as of August 26, 1996.

(d) Principal adult uses shall adhere to the following signing regulations in addition to the sign regulations of article X, division 7, of this chapter:

(1) Sign messages shall be generic in nature and shall only identify the name of business.

(2) Signs shall comply with the requirements of size and number for the district in which they are located.

(e) Principal adult uses shall be limited to 7:00 a.m. to 12:30 p.m. for their hours of operation. A differing time schedule may be approved by the city council if it can be satisfactorily demonstrated by the operator to the city council that all of the following apply:

(1) The schedule will not adversely impact or affect uses or activities within 350 feet.

(2) The schedule will not result in increased policing and related service calls.

(3) The schedule is critical to the operation of the business.

(Code 2015, § 10.83(4))

Sec. 10-1541. Accessory uses.

Accessory adult uses shall be permitted in all commercial districts, provided the accessory use conforms with the provisions of this section.

(1) An accessory adult use shall:

a. Comprise no more than ten percent of the floor area of the establishment in which it is located.

b. Comprise no more than 20 percent of the gross receipts of the entire business operation.

c. Not involve or include any activity except the sale or rental of merchandise.

(2) Accessory adult uses shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access.

a. *Movie rentals.* Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation.

b. *Magazines.* Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

c. *Other uses.* Accessory adult uses not specifically cited shall comply with the intent of this section subject to the approval of the zoning administrator.

(3) Accessory adult uses shall be prohibited from both internal and external advertising and signing of adult materials and products.

(Code 2015, § 10.83(5))

Sec. 10-1542. Nonconforming principal or accessory uses.

Adult uses which are in existence prior to August 26, 1996, shall be classified as legal nonconforming uses and may continue in accordance with the provisions of this article. If an adult use becomes nonconforming because of rezoning or the establishment of a use listed in section 10-1539, the adult use shall be considered legal nonconforming and may continue in accordance with the provisions of this article. In no instance, shall a legal nonconforming adult use be allowed to structurally expand the use on the lot on which it is located when the use became legally nonconforming, or expand the adult use to include another lot on which the adult use was not located when it became legally nonconforming. If the building in which a legal nonconforming adult use is located is destroyed by any means to an extend of greater than 50 percent of its market value, or if the building in which the legally nonconforming adult use is vacant for more than 12 months, an adult use shall not be re-established unless it is in conformance with this section.

(Code 2015, § 10.83(6))

Sec. 10-1543. Enforcement.

(a) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction, shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(b) Any violation of this section shall be a basis for the suspension or revocation of the certificate of occupancy for the property or building in or on which the adult use is located. In the event the city council proposes to revoke or suspend a certificate of occupancy, the property owner shall be notified in writing of the basis for such proposed suspension or revocation. The city council shall hold a hearing for the purpose of determining whether to revoke or suspend the certificate of occupancy, which hearing shall be within 30 days of the date of the notice.

(c) The city council shall determine whether to revoke or suspend a certificate of occupancy within 30 days after the close of the hearing or within 60 days of the dates of the notice, whichever is sooner, and shall notify the property owner of its decision within that period.
(Code 2015, § 10.83(7))

Secs. 10-1544—10-1574. Reserved.

DIVISION 4. NONCONFORMITIES

Sec. 10-1575. Purposes.

(a) This section regulates and limits the continued existence of uses, structures, and lots established prior to the effective date of the ordinance from which this chapter is derived that do not conform to the regulations of this article applicable in the zoning districts in which such uses, structures, and lots are located.

(b) The zoning districts established by this chapter are designed to guide the future use of land within the city by encouraging the development or maintenance of desirable residential, business, office, institutional, and industrial areas with appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety, and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such districts are established and thus the gradual elimination of such nonconformities is generally desirable.
(Code 2015, § 10.84(1))

Sec. 10-1576. General scope and scheme of regulation.

(a) This section establishes separate restrictions for the following categories of nonconformity:

(1) Nonconforming uses (section 10-1577).

(2) Nonconforming structures (section 10-1578).

(3) Nonconforming lots (section 10-1579).

(4) Nonconforming junkyards (section 10-1580).

(5) Nonconforming parking surfaces (section 10-1581).

(b) The degree of restriction made applicable to each category of nonconformity is generally related to the degree of incompatibility with permitted uses and the amount of investment typically associated with nonconformities of that type. Pursuant to article XI, division 5, of this chapter, provision is made for relief from some of the restrictions of this section when practical difficulties or particular hardship exist.
(Code 2015, § 10.84(2))

Sec. 10-1577. Nonconforming uses.

(a) *Restrictions.* The restrictions listed in this section shall apply to nonconforming uses of land.

(b) *Authority to continue.* Except with regard to the termination by discontinuance or abandonment of a use as provided for below, any lawfully existing nonconforming use may be continued so long as it remains otherwise lawful, subject to the restrictions set forth below:

(1) *Ordinary repair and maintenance.* Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure devoted in whole or in part to a nonconforming use; provided, however, that this restriction shall not be deemed to authorize any violation of this section.

(2) *Enlargement of structure.* No structure devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner, including the interior addition of floor area, unless the use of such structure shall thereafter conform to the use regulations of the zoning district in which it is located.

(3) *Extension of use.* A lawful existing nonconforming use may be extended or expanded throughout an existing building, provided that such extension or expansion does not require that the structure devoted to the nonconforming use be structurally altered or enlarged; and provided further that the extension or expansion of the use shall not be allowed unless the off-street parking and loading spaces required for such extension or expansion are provided in accordance with the requirements of article X, divisions 5 and 6, of this chapter.

(4) *Moving.* No structure devoted in whole or in part to a nonconforming use shall be moved in whole or in part for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

(5) *Change in use.*

a. A lawful nonconforming use may be changed to a conforming use permitted in the zoning district in which it is located; provided, however, when such a nonconforming use is changed to a conforming use, it shall not thereafter be changed back to any nonconforming use.

b. A lawful nonconforming use may be changed to another nonconforming use of the same or similar type or intensity, or to another nonconforming use of the same or similar type, but of less intensity, subject to interpretation by the zoning administrator pursuant to article XI, division 8, of this chapter. In addition to the requirements set forth in article XI, division 8, of this chapter, the zoning administrator shall not approve such change if it will require the violation of the restrictions of this section. Whenever a nonconforming use is changed to a less intense nonconforming use, it shall not thereafter be changed back to a more intense nonconforming use.

(6) *Damage or destruction.* Any structure devoted in whole or in part to, or that is accessory to, a nonconforming use and that is damaged or destroyed, by any means, to the extent of more than 50 percent of the assessed market value, shall not be restored unless the use of such structure shall thereafter conform to the use regulations of the zoning district in which it is located. For any use that is legally existing on the effective date of the ordinance from which this chapter is derived, and is otherwise conforming to this article except that the existing number of off-street parking and loading spaces provided for the use is not in compliance with article X, divisions 5 and 6, of this chapter, but the existing parking and loading spaces currently provided for the use were conforming when the use was established, that when the use is thereafter damaged or destroyed by fire, collapse, explosion, or other cause not under the control of the property owner, the requirements of sections 10-1630, and 10-1670, shall not apply if the use is reconstructed, re-established, or repaired within one year and to the same condition, density, and floor area as existed before being damaged or destroyed. The property owner shall be required to restore, or continue in operation, parking and loading facilities equal to the parking and loading to useable floor area ratio maintained at the time of such damage or destruction, and the parking and loading facilities shall conform to all other requirements of article X, divisions 5 and 6, of this chapter.

(7) *Termination by discontinuance or abandonment.* When a nonconforming use is discontinued or abandoned for a period of 12 consecutive months, regardless of any intent to resume or not to abandon such use, such use shall not thereafter be re-established or resumed. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such land or structure is located. Any period of such discontinuance caused by government action, strikes, material shortages, or acts of God, and without any contributing fault by the nonconforming uses, shall not be considered in calculating the length of discontinuance for the purposes of this section.

(Code 2015, § 10.84(3))

Sec. 10-1578. Nonconforming structures.

The term "authority to continue" means any nonconforming structure may be continued so long as it remains otherwise lawful, subject to the restrictions set forth below.

(1) *Repair, maintenance, alterations, and enlargement.* Except as limited below and allowed elsewhere in this article, any nonconforming structure may be repaired, maintained, altered,

or enlarged; provided, however, that no such repair, maintenance, alteration, or enlargement shall either create any new nonconformity or increase the degree of the existing nonconformity of all or any part of such structure.

(2) *Moving.* No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to all of the regulations of the zoning district in which it is located after being moved.

(3) *Damage or destruction.* Any nonconforming structure that is damaged or destroyed by any means not within the control of the owner thereof, to any extent, may be repaired or restored in accordance with M.S.A. § 462.357, subd. 1e; provided, however, that no such repair or restoration shall be allowed that would increase the degree of any nonconformity existing prior to such damage or destruction, and no such repair or restoration shall be allowed for that portion of a structure encroaching into a public right-of-way or sight triangle as defined in section 5-20.

(Code 2015, § 10.84(4))

Sec. 10-1579. Nonconforming lots.

Subdivided lots of record in existence prior to May 28, 1956, which do not meet the minimum width, area, and frontage requirements of this article, shall be considered legally nonconforming and developable lots, provided all other regulations of this article are satisfied and an approved public access is provided to the lot. If two or more nonconforming lots are contiguous and under single ownership at the time of the enactment of this article, then such lots shall be combined for the purposes of development in order to satisfy the requirements of this article.

(Code 2015, § 10.84(5))

Sec. 10-1580. Nonconforming junkyards.

No junkyard may continue as a legal nonconforming use for more than one year after the effective date of the ordinance from which this chapter is derived, except that a junkyard may continue as a legal nonconforming use in an industrial district if, within that period, it is completely enclosed within a building, fence, screened planting, or other device of such height as to completely screen the operations of the junkyard. Plans of such a building or device shall be subject to site plan review and shall be approved by the city council, upon the recommendation of the planning agency, prior to the establishment of such building or device.

(Code 2015, § 10.84(6))

Sec. 10-1581. Nonconforming parking, driveway, and driving surfaces.

All legal nonconforming off-street parking spaces, driveways, and driving surfaces which are not constructed in conformance with section 10-1619, shall be hard surfaced with concrete or asphalt within one year of any of the following:

(1) The issuance of a building permit which would allow the increase in the amount of lot coverage on the zoning lot.

(2) The change in the principal use of the zoning lot.

(3) The hard surfacing of a public right-of-way, which was previously not hard surfaced with concrete or asphalt, when the right-of-way serves as an access to the nonconforming surface.

(4) A major reconstruction of a public roadway, as defined in the city assessment policy or capital improvements program, when the right-of-way serves as an access to the nonconforming surface.

(5) The expansion of any existing, or development of any additional driveways, parking areas or driving areas on the zoning lot.

(6) The issuance of a rental license for property that is not currently licensed or the license has lapsed.

(Code 2015, § 10.84(8))

Sec. 10-1582. Nonconforming accessory uses and structures.

No use or structure that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have been terminated, unless it shall thereafter conform to all regulations of the zoning district in which it is located.
(Code 2015, § 10.84(9))

Sec. 10-1583. Burden of owner to establish legality of nonconformity.

The burden of establishing that any nonconformity lawfully exists under the provisions of this section shall, in all cases, be upon the owner of the nonconforming property and not upon the city.
(Code 2015, § 10.84(10))

Secs. 10-1584—10-1609. Reserved.

DIVISION 5. OFF-STREET PARKING

Sec. 10-1610. Scope of regulations.

The off-street parking provisions of this article shall apply to all buildings and structures erected and all uses of land established after the effective date of the ordinance from which this chapter is derived. All required off-street parking shall be provided on private property, unless authorized otherwise by the city council.
(Code 2015, § 10.85(1))

Sec. 10-1611. Existing parking facilities.

Accessory off-street parking facilities in existence on the effective date of the ordinance from which this chapter is derived shall not hereafter be reduced below the parking and loading requirements of this article.
(Code 2015, § 10.85(2))

Sec. 10-1612. Exemption of required parking spaces.

Uses and buildings located in the CBD-C district shall be exempt from providing the required parking spaces set forth in this section. Uses and buildings located in the CBD-F district shall be required to provide one-half the required parking set forth in this section. However, the city council may require off-street parking to be provided for conditional uses in the CBD-C or CBD-F districts. In lieu of required parking spaces in the CBD-C and CBD-F districts, a payment may be made to the city parking fund or other authorized parking fund. The in lieu payment per parking space shall be determined by the council on a yearly basis with the same procedure required for all assessments. Requests for payment in lieu of required parking spaces must be made to the council through the city planning commission. The determination to allow a payment in lieu of required parking will be made by the council and shall be based on available municipal parking facilities within 500 feet of the use and the total city parking system in general.
(Code 2015, § 10.85(3))

Sec. 10-1613. Voluntary or required provision of additional parking facilities.

Nothing in this article shall be deemed to prevent the voluntary establishment of off-street parking to serve any existing use of land or buildings, provided that all regulations of this article governing the location, design, and operation of such facilities are adhered to. As part of the conditional use approvals, the city council may require additional off-street parking to be provided in excess of the requirements of this section in order to ensure that an anticipated parking demand will be served.
(Code 2015, § 10.85(4))

Sec. 10-1614. Parking of commercial vehicles or equipment.

No commercial vehicle or equipment of any kind exceeding 9,000 pounds gross weight, shall be parked, stored, or otherwise continued in a residential district unless in a completely enclosed structure or unless the vehicle or equipment is being used in conjunction with a legitimate service being rendered for the benefit of the residential premises.
(Code 2015, § 10.85(5))

Sec. 10-1615. Parking and storage of certain vehicles.

Automobile vehicles or trailers of any kind or type without current legal license plates or which are inoperable are a public nuisance and enforcement and abatement shall be undertaken as provided in section 11-35.
(Code 2015, § 10.85(6))

Sec. 10-1616. Submission of a site plan.

Any application for a building permit affected by this section and required to provide more than four off-street parking stalls shall include a site plan, drawn to scale and fully dimensioned, showing any off-street parking or loading facilities to be provided in compliance with this article. Such site plan

shall be a part of the building permit and no certificate of occupancy shall be issued until the site plan is approved. The site plan shall be drawn to a scale of one inch equals 20 feet or larger and shall include at least the following information:

(1) The applicant's name and address and interest in the property.

(2) The owner's name and address, if different from the applicant, and the owner's signed consent to the filing of the site plan.

(3) The street address and legal description of the property.

(4) The zoning classification and the required setback for the property.

(5) A complete description of the proposed use.

(6) The actual dimensions of the parking lot and exact sizes and location of all proposed buildings or other structures.

(7) The actual dimensions and location of all driveways, parking spaces, safety curbs, loading areas, and landscaping.

(8) A depiction of all drainage features and any environmental features.

(9) Such other and further information or documentation as the zoning administrator may deem to be necessary or appropriate to a full and proper consideration and disposition of the particular site plan.

(Code 2015, § 10.85(7))

Sec. 10-1617. Location of parking spaces.

(a) Parking spaces required for one- and two-family dwellings shall be located on the same lot as the dwelling served or on an abutting lot.

(b) (1) Off-street parking spaces required for all non-one- and two-family dwellings shall be located on the same lot as the land use activity; provided, however, that when four or more parking spaces are required, off-premises parking may be provided on a lot located not more than 500 feet from the main building of the use requiring the parking, provided the off-premises parking lot shall be held under the same ownership or leasehold interest as the zoning lot occupied by the building or use to which the parking facilities are accessory.

(2) In no instance shall a use not permitted in a residential zoning district be allowed to provide off-street parking in a residential zoning district.

(c) The prohibition against parking in any yards shall not be interpreted to prohibit the use of hard surfaced driveways for the temporary parking of automobiles.

(Code 2015, § 10.85(8))

Sec. 10-1618. Parking in required yards.

The location of parking spaces and internal driveways shall conform to the stated setbacks and ground coverages for impervious surfaces contained in each zoning district. Parking areas shall be designed so as to avoid parked vehicles encroaching into required yards. Parking shall not be located in the required sight triangle as defined by section 5-20.
(Code 2015, § 10.85(9))

Sec. 10-1619. General parking provisions.

Every parcel of land hereafter used as a public or private parking area, regardless of whether or not the parking is required by this section, shall be developed and maintained in accordance with the following requirements:

(1) *Design.* The design of parking lots or areas shall be subject to the approval of site plan review, in accordance with standards set forth in article X, division 10, of this chapter, and any additional standards established by the zoning administrator. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner that will least interfere with the movement of street traffic.

(2) *Landscaping and screening.* Landscaping and screening shall be provided in accordance with the requirements of article X, division 8, of this chapter.

(3) *Lighting.* Reserved.

(4) *Signs.* Accessory signs shall be permitted on parking areas in accordance with the provisions specified in article X, division 7, of this chapter. All compact parking stalls shall be signed as such.

(5) *Curb and striping.*

a. All off-street parking areas in multiple-family, commercial, or planned industrial zones shall have a six-inch-high nonsurmountable curb around the perimeter of the parking area and driveway.

b. All off-street parking spaces containing more than four parking spaces shall delineate individual parking spaces by striping or painting having a width of at least four inches.

(6) *Parking spaces and driveway surfaces.*

a. All motor vehicles, as defined by section 11-35, shall have access to and be stored on off-street parking spaces, parking lots, driveways, and driving surfaces that are hard surfaced with concrete or asphalt, except as exempted below. Such areas shall be well-drained and maintained in a well-kept manner.

b. Exemptions.

1. Off-street parking spaces, driveways, and driving surfaces which only have access to a public right-of-way that is not hard surfaced with concrete or asphalt are not required to be hard surfaced with concrete or asphalt until such right-of-way is surfaced with concrete or asphalt.

2. Industrial properties located in M-1 and M-2 districts may maintain gravel parking or storage areas and driving surfaces to be utilized by heavy equipment in excess of 9,000 pounds, provided the gravel parking or storage areas and driving surfaces are located more than 100 feet from a hard surfaced public right-of-way, or the access to such areas is located more than 100 feet from a hard surfaced public right-of-way.

(Code 2015, § 10.85(10); Ord. of 6-29-1998; Ord. of 2-9-2004)

Sec. 10-1620. Utilization of required parking spaces.

Except as otherwise provided in this section, required accessory off-street parking facilities provided for uses listed in this section shall be solely for the parking of motor vehicles utilized by the owners, guests, patrons, occupants, or employees of such uses.

(Code 2015, § 10.85(11))

Sec. 10-1621. Handicap parking.

Any parking area to be used by the general public shall provide parking spaces designated and located to adequately accommodate the handicapped, and these shall be clearly marked as such. Handicap stalls shall be located in close proximity to the most accessible handicap entrance of the principal building. The number and dimension of the stalls shall conform to applicable state and federal regulations.

(Code 2015, § 10.85(12))

Sec. 10-1622. Compact parking stalls.

One-quarter of the total parking requirement for a particular use may be designated for compact parking. Compact parking stalls shall be individually or jointly signed and shall conform to the size and dimensions contained in section 10-1623.

(Code 2015, § 10.85(13))

Sec. 10-1623. Off-street parking dimensions.

The dimensions for parking stalls and associated driving aisles shall conform to the standards recommended by the site plan and traffic safety committee and as adopted and amended, from time to time, by the city council.

(Code 2015, § 10.85(14); Ord. of 10-12-2009)

Sec. 10-1624. Provision for collective parking.

(a) Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements of each such use and all regulations governing location of accessory parking spaces in relation to the use served are adhered to. No parking space or portion thereof shall serve as required space for more than one use unless otherwise authorized by the zoning administrator.

(b) The zoning administrator may authorize a reduction in the total number of required parking spaces for two or more nonresidential uses jointly providing off-street parking when their respective peak hours of operation do not coincide. (See the schedule for minimum off-street parking requirements in section 10-1630.) Reduction of joint use parking shall be subject to the following conditions:

(1) No more than 50 percent of the parking spaces required for a principal use may be supplied by parking facilities required for any other principal use.

(2) The number of shared spaces for two or more distinguishable land uses shall be determined by the following procedure:

a. Multiply the minimum parking required for each individual use, as set forth in section 10-1630, by the appropriate percentage indicated in section 10-1629, for each of the six designated time periods; then

b. Add the resulting sums for each of the six column; then

c. The minimum shared parking requirement shall be the highest sum among the six columns resulting from the above calculations.

(3) If the zoning administrator determines that one or all of the land uses proposing to make use of joint parking facilities do not conform to one of the general land use classifications in the schedule of shared parking calculations, then the petitioner shall submit sufficient data to indicate that there is not substantial conflict in the principal or peak operating hours of the uses.

(4) The property owners involved in the joint use of off-street parking facilities shall submit a legal agreement approved by the city attorney guaranteeing that the parking spaces shall be maintained so long as the uses requiring parking are in existence unless the required parking is provided elsewhere in accordance with the provisions of this section. Such instrument shall be recorded by the property owner with the county recorder of deeds, and a copy filed with the zoning administrator.

(Code 2015, § 10.85(15))

Sec. 10-1625. Parking spaces for accessory uses.

Parking spaces for accessory uses not specifically enumerated within section 10-1629, shall be assumed to be included in the principal (permitted or conditional) use requirement.

(Code 2015, § 10.85(16))

Sec. 10-1626. Calculation of parking space requirements for mixed-use developments.

In computing required parking spaces for a mixed use development or a shopping mall, the total number of required spaces shall be based upon the parking requirements for all the principal uses on the zoning lot.

(Code 2015, § 10.85(17))

Sec. 10-1627. Determination of required number of parking spaces for uses not specified herein.

In the event this article does not specify the number of parking spaces for a specific use, the zoning administrator shall determine the number of spaces required. In making this determination, the zoning administrator shall consider the following criteria:

(1) The number of parking spaces required for a use listed in section 10-1629 that is the most similar to the proposed use in terms of the parking demand anticipated to be generated.

(2) The square footage to be occupied by the proposed use.

(3) The number of employees and patrons that are anticipated for the proposed use.

(Code 2015, § 10.85(18))

Sec. 10-1628. Standards and units of measurement to determine off-street parking.

For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

(1) *Floor area, livable or useable.* The gross useable or livable floor area shall be used to determine the parking requirement.

(2) *Places of assembly (public or private).* In places of assembly in which those in attendance occupy benches, pews, and other similar seating facilities, each 22 inches of linear bench or pew space shall be counted as one seat for the purpose of determining required off-street parking.

(3) *Open assembly areas.* In places of public assembly in which those in attendance occupy temporary seating, each four persons of occupant load as determined by the building official shall be counted as requiring one parking space.

(4) *Interpreting calculation of fractional parking spaces.* When determination of the number of off-street parking spaces required by this section results in a requirement of a fractional space, any fraction of less than one-half may be disregarded, while a fraction of one-half or more, shall be counted as one parking space. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing on the premises or both, at any one time.

(5) *Garages, driveway parking, tandem parking.*

a. Parking stalls located within a private garage may be used to satisfy the off-street parking requirements of this section.

b. The area of the driveway immediately adjacent to the entrance to a private garage may be considered a parking area for the purpose of satisfying the off-street parking requirements of this section, provided that such parking spaces conforms to the dimensional requirements of this section, and such parking spaces shall not restrict or interfere with an internal traffic lane and shall not be located on a public right-of-way. All other areas of the driveway, as defined in section 10-2, shall not be used to satisfy the off-street parking requirement of this section.

c. Notwithstanding any of above, or as otherwise permitted in this chapter or chapter 5, tandem parking arrangements shall not be allowed in order to satisfy the parking requirements of this section.

d. The provision of this subsection shall also apply to the rental housing standards in this chapter or chapter 5.

(6) *Parking for bicycles.*

a. Nonresidential uses and multiple-family dwellings having an off-street parking requirement of at least 15 and not more than 40 automobile spaces shall provide a minimum of two off-street bicycle parking spaces. Nonresidential and multiple-family dwelling uses having an off-street parking requirement of 40 or more automobile spaces shall provide off-street bicycle parking spaces equal to five percent of the total number of automobile off-street parking spaces provided.

b. Subject to review and approval by the planning agency, the total number of required automobile off-street parking spaces may be reduced at the ratio of one automobile off-street parking space for each six bicycle spaces. However, the total number of required automobile off-street parking spaces shall not be reduced by more than five percent.

(Code 2015, § 10.85(19); Ord. of 6-9-1998; Ord. of 6-14-2010)

Sec. 10-1629. Schedule of shared parking calculation.

(a) The schedule of shared parking calculation shall be as follows:

General Land Use Classification	*Weekdays*		
	12:00 midnight—7:00 a.m.	*7:00 a.m.—6:00 p.m.*	*6:00 p.m.—12:00 midnight*
Office and industrial	5 percent	100 percent	5 percent
Retail	10 percent (open) 0 percent (not open)	100 percent	80 percent
Restaurant	50 percent	70 percent	100 percent
Hotel	100 percent	65 percent	100 percent

General Land Use Classification	*Weekends*		
	12:00 midnight—7:00 a.m.	*7:00 a.m.—6:00 p.m.*	*6:00 p.m.—12:00 midnight*
Office and industrial	0 percent	100 percent	10 percent
Retail	10 percent (open) 0 percent (not open)	100 percent	60 percent
Restaurant	70 percent	45 percent	100 percent
Hotel	100 percent	65 percent	100 percent

(b) How to use the schedule of shared parking. For each applicable general land use category, calculate the number of spaces required for a use if it were freestanding (refer to the schedule of minimum off-street parking requirements). Use those figures for each land use to calculate the number of spaces required for each time period for each use, (six time periods per use). For each

time period, add the number of spaces required for all applicable land uses to obtain a grand total for each of the six time periods. Select the time period with the highest total parking requirement and use that total as your shared parking requirement.
(Code 2015, § 10.85(20))

Sec. 10-1630. Parking requirements.

In any district, whenever a building is erected, converted, enlarged or the use of the building or premises is altered, off-street parking shall be provided as follows:

Use	*Parking Spaces Required*
Residential	
One-family, two-family and multiple-family	Two spaces per dwelling unit
Other residential:	
Congregate housing	One-half space per dwelling unit
Fraternity/sorority house	Two spaces per each three occupants
Dormitories	Two spaces per each three occupants
Nursing home, rest home, convalescent facility	One for each four beds, plus one for each three employees
Rental properties	Refer to chapter 7, article IV
Commercial	
General	One space per 200 sq. ft. of retail or sales floor area, unless specifically noted
Special commercial	
Automobile service (no convenience)	Three spaces per service stall, plus one for each employee on major shift and two stalls per pump
Banks	One space per 250 sq. ft. of gross floor area
Bar	One space for every four permitted occupants of the building as determined by the city building official and city fire marshal using the occupancy standards contained in state building and plumbing codes and fire code as adopted by the city and as amended from time to time
Convenience store	Without gas pumps, one space per 200 sq. ft. of sales area
	With gas pumps, one space per 200 sq. ft. of retail sales area, plus two spaces per each pump (parking adjacent to each pump may be used to satisfy retail parking requirement provided stall dimensions are conforming to section 10-1623)
Drive-through facility	Three off-street stacking spaces per drive-through lane
Furniture and appliance	One space per 400 sq. ft. of gross sales floor area, and one space per employee on major shift
Hotel or motel	One space per unit, plus one space per four seats located in an accessory restaurant or lounge and one space per each two employees
Mini-storage	One parking stall for every two storage units; a parking space adjacent to a storage unit may be counted as one parking space

Use	*Parking Spaces Required*
Restaurant and eating and nonalcoholic drinking establishments (Ord. of 3-27-2006)	One space per each four seats, one space for each two employees on major shift, one space for each delivery vehicle, and one space for customer food pick-up
Service Business Uses	
Automobile repair	Three spaces per service stall, plus one for each employee on major shift
Beauty and barbershops	Three spaces per operator station
Carwash	Three off-street vehicle stacking spaces per wash stall and one off-street parking space per employee on major shift
Private club	One space per three persons of the maximum capacity of the facility
Motor vehicle, manufactured home, bicycle or motorcycle, and manufactured home sales	One space per employee, one space for each 250 square feet of office area, and five spaces per 1,000 sq. ft. of enclosed sales area
Offices and Related Uses	
General standards	One parking space per each 250 sq. ft. of gross floor area
Other office uses	
Medical and dental offices	One parking space per each 200 sq. ft. of gross floor area.
Recreational Uses	
General standards	One space per four persons of the maximum occupancy load
Specific recreational uses	
Auction house, skating rink, health clubs	One parking space for each 400 sq. ft. of gross floor area
Billiard parlor, dance hall	One parking space per 50 sq. ft. of gross floor area
Bowling lanes	Five spaces per lane, plus 50 percent of the spaces otherwise required for any accessory use (e.g., bars, restaurants)
Golf courses	Five parking spaces per green, plus 50 percent of the spaces otherwise required for any accessory use (e.g., bars, restaurants)
Indoor movie theater	One parking space for each four seats
Stadium, auditorium, gymnasium, community center	One parking space for each four persons of the maximum occupant load
Miniature golf course, archery range, golf driving range	Ten spaces respectively

Use	*Parking Spaces Required*
Industrial Uses	
Manufacturing, testing, research or lab	Four off-street parking spaces, plus one space per employee on the major shift, or one space for each 300 sq. ft. of floor area
Truck terminals	Three off-street parking spaces, plus one per employee on the largest working shift
Warehousing and wholesale business	Three off-street parking spaces, plus one space per employee on the largest working shift
Institutional	
Church and other religious institutional	One space per four seats of maximum seating capacity in largest congregation area
Hospital	One space per each four beds, plus one space per each three employees on the largest shift
Libraries/Museums	
General standards	One space per 250 sq. ft. of floor area or one space per four seats at the maximum occupancy load, whichever is greater, plus one space per employee on the largest work shift
Schools	
Elementary and junior high	One space per staff member, plus one space per each two classrooms
Senior high school	One space per staff member, plus one space per five students
Post secondary	One space per staff member, plus one space per two students. In an instance where the school restricts the number of vehicles used by students and faculty, the parking requirement shall be based on the number of vehicles allowed under the restriction and other uses found on school property
Clinics	
General standards	One space per each 250 sq. ft. of floor area, plus one space per staff member

(Code 2015, § 10.85(21); Ord. of 2-9-2004)

Secs. 10-1631—10-1658. Reserved.

DIVISION 6. OFF-STREET LOADING

Sec. 10-1659. Scope of regulations.

The off-street loading provisions of this article shall apply to all nonresidential buildings and structures erected and all uses of land established after the effective date of the ordinance from which this chapter is derived.

(Code 2015, § 10.86(1))

Sec. 10-1660. Existing parking facilities.

Accessory off-street loading facilities in existence on the effective date of the ordinance from which this chapter is derived shall not thereafter be reduced below the parking and loading requirements of this article.
(Code 2015, § 10.86(2))

Sec. 10-1661. Voluntary provision of additional parking facilities.

Nothing in the ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, provided that all regulations of this article governing the location, design, and operation of such facilities are adhered to.
(Code 2015, § 10.86(3))

Sec. 10-1662. Location of off-street loading areas.

All required loading berths shall be located on the same zoning lot as the use served. All motor vehicle loading berths that abut a residential district or an intervening alley, separating a residential district from a business, commercial, or industrial district, shall be completely screened therefrom. No permitted or required loading berth shall be located within 30 feet of the nearest point of intersection of any two streets. No loading berth shall be located in a required front yard. Any loading berth located in a required rear or side yard may be open to the sky.
(Code 2015, § 10.86(4))

Sec. 10-1663. Access of off-street loading areas.

Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic movement and shall be subject to site plan review approval.
(Code 2015, § 10.86(5))

Sec. 10-1664. Utilization of off-street loading areas.

Space allocated to any off-street loading use shall not, while so allocated, be used to satisfy off-street parking requirements.
(Code 2015, § 10.86(6))

Sec. 10-1665. Size of off-street loading areas.

Unless otherwise specified, a required off-street loading berth shall be at least ten feet in width by at least 35 feet in length for short berths, and 12 feet in width by at least 50 feet in length for long berths exclusive of aisle and maneuvering space. Maneuvering aprons of appropriate width and orientation shall be provided and will be subject to site plan review approval.
(Code 2015, § 10.86(7))

Sec. 10-1666. Vertical clearance of off-street loading areas.

All off-street loading areas shall have a vertical clearance of at least 14 feet.
(Code 2015, § 10.86(8))

Sec. 10-1667. Minimum facilities required for off-street loading areas.

Uses for which off-street loading facilities are required herein, but that are located in buildings of less floor area than the minimum prescribed for such required facilities, shall provide adequate receiving facilities, accessible by motor vehicle off any adjacent alley, service drive, or open space on the same zoning lot.
(Code 2015, § 10.86(9))

Sec. 10-1668. Central or joint loading.

Central loading facilities may be substituted for loading berths on individual zoning lots, provided the following conditions are fulfilled:

(1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.

(2) Total off-street loading berths provided shall meet the minimum requirements herein specified, based on the use of the several types of uses served. (Area of types of uses may be totaled before computing number of loading berths.)

(3) No zoning lot served shall be more than 500 feet away from the central loading area.
(Code 2015, § 10.86(10))

Sec. 10-1669. General off-street loading provisions.

(a) *Design of loading areas.* All loading areas shall be oriented away from adjacent residential or other incompatible uses.

(b) *Plan.* The design of loading areas shall be subject to the approval of the site plan review in accordance with article X, division 10, of this chapter, and any additional standards established by the zoning administrator.

(c) *Landscaping and screening.* Landscaping and screening shall be provided in accordance with the requirements of article X, division 8, of this chapter.

(d) *Lighting.* Where a parking area or parking lot is illuminated, fixed lighting shall be arranged to prevent direct glare beams onto any public property, including streets and any adjoining private property. All light fixtures shall incorporate a luminaire with a 90-degree or less cutoff that prevents light from the luminaire to be projected above the elevation of the light fixture or beyond the zoning lot on which the lighting fixture is located. In no case shall illumination exceed one footcandle at the property line.

(e) *Signs.* Accessory signs shall be permitted on loading areas in accordance with the provisions specified in the article X, division 7, of this chapter.

(f) *Loading area surface.* Loading area surfaces shall be effectively drained and shall be hard surfaced with concrete or asphalt.
(Code 2015, § 10.86(11))

Sec. 10-1670. Schedule of off-street loading requirements.

Off-street loading facilities for new developments shall be provided as specified below:

Schedule of Off-Street Loading Requirements

Use	*Gross Floor Area (sq. ft.)*	*No. of Berths and Size*
Auditoriums, cultural, and conference facilities	10,000—20,000	One short
	20,001—100,000	One short
each additional	100,000	One long
Freight facilities	5,000—40,000	One long
	40,001—100,000	Two long
each additional	100,000	One long
Hospitals, universities, colleges	10,000—300,000	One short
each additional	200,000	One short
Hotels and institutional	10,000—200,000	One short
each additional	100,000	One short
Industrial and manufacturing uses	5,000—10,000	One short
	10,001—40,000	One long
	40,001—100,000	Two long
each additional	100,000	One long
Office uses	10,000—200,000	One short
each additional up to 500,000	100,000	One short
each additional	500,000	One short
each additional	200,000	One long
Retail/commercial	5,000—10,000	One short
	10,001—25,000	Two short
	25,001—60,000	Two long
	60,001—100,000	Three long
Transportation facilities (air/bus/rail)	10,000—40,000	One short
each additional	40,001—100,000	One long, one short
	100,000	One long
Utilities and communication facilities	10,000—40,000	One short
	40,001—100,000	One long, one short

Use	*Gross Floor Area (sq. ft.)*	*No. of Berths and Size*
each additional	100,000	One long

"Gross floor area" refers to buildings or structures on premises.

Berth (loading dock):

Short: ten feet wide by 35 feet deep.

Long: 12 feet wide by 50 feet deep.

(Code 2015, § 10.86(12))

Secs. 10-1671—10-1693. Reserved.

DIVISION 7. SIGNS

Sec. 10-1694. Intent.

The intent of this section is to provide for necessary visual communications and to preserve and promote a pleasant physical environment within the city by regulating the type, number, size, height, lighting, maintenance, and erection of sign structures.

(Code 2015, § 10.87(1); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-1695. Definitions.

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

Address sign means a sign communicating the street address or the name of the occupant of a property.

Automobile service station means any building or premises primarily used for dispensing gasoline or diesel fuel.

Balloon means a flexible, nonporous, bag inflated with either air or helium that causes it to rise and float in the atmosphere.

Banner means a temporary sign made of cloth, plastic, or vinyl materials.

Bench sign means a sign which is attached to a bench at a designated mass transit loading and unloading area.

Canopy and awning means any projecting structure, moveable or stationary, that is attached to and supported by a building. The term "canopy and awning" does not include canopies covering fuel dispensing islands at automobile service stations.

Directional sign means a sign with directional arrows or information on the location of a business or other use for the purpose of guiding vehicular and pedestrian traffic.

Earth tone colors means beige, tan, brown, gray, forest green, and burgundy. Black shrouding will be considered an earth tone color for monument signs.

Electronic message sign means a sign whose message may be changed at intervals by electronic process or remote control and whose only movement is the periodic changing of information having a constant light level.

Elevated highway means a state or federal highway which is elevated by the use of fill or bridging at least five feet above the grade of adjacent properties.

Façade means the face of a building from the lowest exposed point to the roof.

Flashing sign means any illuminated sign that has artificial light or color which is not maintained at a constant light level intensity or color when such sign is in use.

Franchise architecture means any franchise color schemes or other designs, symbols, or features intended to attract the attention of the viewing public and reinforce the corporate or distinct image of a given business.

Ground/pylon sign means a freestanding sign, including the structure needed to support such sign.

Illuminated sign means any sign that is lighted by an exterior or interior artificial light source.

Joint identification sign means a sign which serves as common or collective identification for a group of businesses or uses operating on the same zoning lot (e.g., shopping center, office, complex, etc.). Such sign may name the individual businesses or uses in the development.

Linear frontage means that street frontage of a zoning lot designated by the street address for the main building.

Lot, through, means a lot having front and rear lot lines abutting a public street. Alleys are not considered a public street for the purpose of this section.

Low profile sign means monument signs that are eight feet or less in height.

Marquee, awning, and canopy signs means any message or identification which is affixed to or part of a marquee, awning or canopy.

Menu sign means a sign incorporated into a drive-through facility where products or services are offered directly to the occupant of the vehicle. A menu sign identifies only the products or services available at the drive-through facility.

Metal shroud means a piece of metal which is used to conceal and screen the support structure of a monument sign.

Monument sign means a freestanding sign in which the entire base of the sign structure is in contact with the ground, providing a solid and continuous background for the sign face that is the same width as the sign from the ground to the top of the sign. The base of the sign shall be constructed of a permanent material such as concrete block or stone.

Monument sign area means the advertising area of a monument sign.

Multi-business center means a structure which contains one or more businesses.

Nonconforming sign means a sign which lawfully existed at the time of the adoption of the ordinance from which this section is derived and does not conform to the requirements thereof.

Off-premises sign means a sign advertising a business, commodity, service, or entertainment conducted, sold, or offered elsewhere other than upon the zoning lot where the sign is maintained.

On-premises sign means a sign which advertises the business, commodity, service, or entertainment offered upon the same zoning lot on which the sign is located.

Parapet means a low, protective wall or railing along the edge of a roof, balcony or similar structure.

Permanent sign means any sign which is not temporary. Banners shall not be considered to be a permanent sign.

Portable sign means a sign designed to be moveable from one location to another or not permanently attached to the ground or to any permanent structure.

Projecting sign means a sign, other than a wall sign, which projects from and is supported by a building.

Public alley means any public right-of-way whose primary function is to furnish vehicular access to the side or rear of properties having their main frontage along a street.

Reader board sign means a sign intended to display a message through the use of manually changed letters, that is permanently attached to a ground/pylon sign or affixed to a wall of the principal building. All other such signs shall be deemed as temporary signs.

Real estate sign means a sign advertising the sale, rental, or development of the premises upon which it stands, or directing attention to the opening or location of a new residential development.

Redevelopment means construction of a new building on a zoning lot or a 50 percent expansion of an existing building floor area.

Roof sign means a sign affixed upon the roof of a building and located above the roofline.

Roofline, in structures with a flat roof, means the top line of the coping or parapet; in structures with pitched roofs, the intersection of the outside wall with the roof.

Rotating sign means any sign which revolves, rotates or has any moving parts.

Searchlight means an apparatus containing a light source and a reflector for projecting a bright beam of approximately parallel rays of light.

Shared internal access means a driving aisle or lane that provides access to a public street for two or more businesses. The access should be dedicated in a plat or via an access easement.

Sight triangle means a triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection (as defined by section 5-20).

Sign means any written announcement, declaration, demonstration, display, illustration, insignia or illumination used to advertise or promote the interest of any person when the same is displayed or placed out of doors in view of the general public, or inside of a building within three feet of a transparent window. For the purpose of enforcing this article, the maximum allowed sign area shall include any portion of a building or accessory structure that displays franchise color schemes or other designs, symbols, or features intended to attract the attention of the viewing public and reinforce the corporate or distinct image of a given business.

Sign height means the vertical distance measured from the average elevation of the finished ground grade within ten feet of the sign to the highest point of the sign.

Skyline logo means a type of roof sign consisting of a three-dimensional symbol, figure, or graphic located upon a building rooftop which may not contain any text or commercial advertising or display. An electronic or "dynamic" sign shall not be considered an eligible skyline logo.

Sign setback means the required minimum horizontal distance between any part of a sign and the related front, side, or rear property lines.

Temporary sign means any sign, balloon, banner, blimp, flag, free standing sign, pennant, poster, reader board or advertising display which is intended to be displayed for a limited period of time. Signs other than temporary signs shall be considered permanent signs.

Wall area means the face of a building from the lowest exposed point to the roof.

Wall sign means a sign affixed to the exterior wall of a building.
(Code 2015, § 10.87(2); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-1696. Permit and sign plan required.

(a) No sign shall be erected, re-erected, or altered unless a permit has been obtained, unless no permit is required pursuant to section 10-1697. Application for a sign permit shall be made in writing on forms furnished by the zoning administrator. In addition, a sign plan must be submitted with each new sign that is erected in the city and shall include the following:

(1) The type of sign materials used.

(2) A scaled site plan which displays the size, number, and location of signs on the site and buildings.

(3) If the sign is being illuminated with external lighting, a lighting plan shall be submitted and shall conform to section 10-1774.

(4) If a pylon or ground/pylon sign is proposed, a structural footing detail shall be submitted as required by section 10-1699.

(b) The fee for a sign permit shall be, as provided in the city fee schedule. A double fee shall be charged if a sign is erected without first obtaining a permit for such sign.

(c) No separate building permit shall be required, but the building inspector may require the submittal of plans or other pertinent information where such information is necessary to ensure compliance with the building code.
(Code 2015, § 10.87(3); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-1697. Exempted signs; no permit.

(a) The following signs need no permit but shall conform with the standards of this section:

(1) Address signs for one- or two-family dwellings identifying the occupant or street address, provided that such signs are less than one square foot in area.

(2) Pedestrian, vehicular-traffic, and parking directional signs in parking lots, provided such signs are no more than eight square feet in area and six feet in height. For a zoning lot, a maximum of one such sign shall be permitted at each access/egress point of a development.

(3) Public signs, street signs, warning signs, railroad crossing signs, or signs of public service companies for the purpose of promoting safety.

(4) Signs denoting the architect, engineer, or contractor working upon a work site and real estate signs pertaining to the sale, development or rental of the property. Such signs shall be removed within ten days after completion of construction or the sale, lease or development of 80 percent of the property. No more than three such signs shall be allowed at one time. Each sign shall not exceed the following size limitations:

Project Area	*Residential*	*Commercial/Industrial*
Under one acre	8 sq. ft.	32 sq ft.
1.01 to ten acres	64 sq. ft.	64 sq. ft.
10.1 to 25 acres	150 sq. ft.	150 sq. ft.
25.1 plus acres	300 sq. ft.	500 sq. ft.

(5) Any political sign pertinent to M.S.A. § 211B.045. Such signs shall be located on private property and at least five feet from all property lines and shall not be located in the sight triangle. Other elections held at other times than a state general election are subject to the following restrictions:

a. The maximum size of all signs shall be eight square feet.

b. Such signs may be erected 60 days prior to the election until three days following the election.

c. Such signs must be at least five feet away from all property lines and shall not be located in the sight triangle.

(6) Signs or posters attached or painted on the inside of a display window including illuminated signs, but not flashing signs. These signs shall be placed as not to obstruct or interfere with any window, doorway or fire escape. Such signs shall not exceed 50 percent of the window area or 32 square feet. Such signs shall be prohibited in residential districts.

(7) Emergency signs as required by any governmental agency.

(8) Memorial signs or tablets, names of buildings and date of erection when cut into or attached to any masonry surface or noncombustible material.

(9) Home occupation signs, nonilluminated, attached to the wall of a dwelling, and not exceeding one square foot in area.

(10) Signs denoting employment opportunities within a the property. Such signs shall not exceed 32 square feet.

(11) Bench signs at designated mass transit loading and unloading areas. The total area of such signs shall not exceed 32 square feet.

(12) Signs which denote the location of an office, delivery or service area within a business, provided such signs are not greater than eight square feet.

(13) Signs which display a noncommercial message for a local festival or an activity sponsored by a nonprofit group. Such signs may be displayed no more than two weeks per calendar year.

(14) Temporary garage and estate sale signs shall conform to the following:

a. One such sign not exceeding eight square feet shall be allowed.

b. All signs shall be located on private property where the sale is conducted setback five feet from all property lines and out of the sight triangle.

c. Such signs may be erected for periods not exceeding three days and all signs shall be removed at the end of the sale. Not more than four such periods shall be allowed in any 12-month period.

(Code 2015, § 10.87(4); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-1698. Prohibited signs.

The following signs are prohibited by this section:

(1) Signs that resemble any official marker erected by a government agency by reason of position, shape or color, which would interfere with the proper function of a traffic sign, signal or be misleading to vehicular traffic.

(2) Signs within a public right-of-way or easement, except for signs installed by governmental entities.

(3) Signs attached to rocks, trees, fences, or utility poles. Signs on fences denoting safety hazards will be allowed.

(4) Signs with rotating beam or flashing illumination.

(5) Signs advertising by letters, words or figures painted upon any sidewalk within the city.

(6) Advertising signs painted on any exterior building surface.

(7) Rotating signs.

(8) Signs painted or attached to vehicles where the vehicle is parked on a property and not intended to be moved for a period of 48 hours or more. At all times, vehicles containing advertising or signage shall not be parked along the property frontage.

(9) Roof signs, except for approval skyline logos in the Skyline Logo District.

(10) Temporary signs which advertise a business, product, or service which is not produced or conducted on the zoning lot upon which the sign is located.

(11) Signs which project over the public right-of-way except in the CBD-F and CBC-C districts.

(12) Use of vehicles or trailers designed for or utilized exclusively for the purpose of mobile advertising upon public streets or other rights-of-way.

(Code 2015, § 10.87(5); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-1699. General requirements.

(a) *Construction standards.*

(1) All signs shall be constructed and maintained in a manner where they will be safe to the general public. A sign shall be repainted whenever its paint begins to fade, chip or discolor and defective parts shall be replaced promptly.

(2) On-premises signs shall be removed from a zoning lot by the owner of such property within 30 days after termination of the use for which the sign was used.

(3) If the zoning administrator shall find that any sign is unsafe, a detriment to the public, not maintained, or constructed, erected or maintained in violation of the provisions of this section, the zoning administrator shall give written notice to the property owner thereof. If the property owner fails to comply with the standards of this section within 30 days after such notice, if no appeal is taken pursuant to the provisions of section 10-1697, or if no owner, occupant, or agent can be found, such sign may be removed or altered by the city. The cost of such city action shall be specially assessed against the subject property.

(4) All permanent signs shall be constructed to meet uniform building code standards for wind resistance, dead loads, wind loads and other applicable sections of the uniform building code. Signs shall be rigidly suspended by means of fastening or support so as not to be free swinging nor a menace to persons or property. All applications for newly erected ground/pylon signs shall include a detailed footing plan which shall be approved and signed by a registered professional engineer under the laws of the state. Before any pylon sign is erected, a footing inspection must be conducted by a city building inspector or the zoning administrator. Inspections must be scheduled at least four hours prior to the inspection.

(5) All parts of a ground/pylon sign shall be located at least five feet from any property line and shall not be located in the sight triangle, which is defined by section 5-20(b).

(6) Projecting signs and any support mechanism of the sign shall not project more than 72 inches out from the face of the building.

(7) All electrical wiring of signs shall comply with the provisions of the National Electrical Code and other applicable sections of the state building code.

(8) No sign shall be erected as to obstruct access/egress to or from fire escapes, windows, doors or exits and fire lanes.

(9) The sign area is the net geometric area that encloses the display surface of the sign. Only one face of a multi-faced sign shall be considered in determining the display surface area.

(10) No pylon sign or ground sign shall be erected in such a manner that projects or will project over any building.

(11) Monument signs shall be constructed with the entire bottom of the sign structure in contact with the ground. The bottom two feet of such signs shall either be Kasota Stone, precast concrete, brick, or landscaping masonry blocks that are earth tone colors unless otherwise provided for. A solid continuous background area should be provided from the ground to the top of the sign via a combination of either Kasota Stone, precast concrete, brick, stone, landscaping blocks, or metal shroud which matches the appearance and color of the principal building.

(12) Signage must comply with the Urban Design Framework Manual.

(b) *Auto service stations/repair.* Auto service stations shall conform to the following and all sign areas shall be applied to the maximum allowable sign area:

(1) Auto service stations shall be allowed a maximum of four signs.

(2) Signs on gas pump island canopies shall be included as one of the four total allowable signs. The area of signs and franchise architecture on canopies shall not exceed ten percent of the canopy face.

(3) Signage on each gas pump island shall be limited to six square feet. Such signs will not be applied toward one of the four total allowable signs.

(4) Sign groupings above service bays shall be counted as one of the four total allowable signs.

(c) *Drive-through facilities.*

(1) Establishments may have one canopy sign at the location of drive-through facilities and automatic teller machines (ATM). The area of the sign shall not be counted towards the maximum allowable signage.

(2) One menu sign may be permitted per drive-through service facility, including banks, photography dropoffs, restaurants, or pharmacies. The sign may be free standing or attached to the building. The sign shall be located in such a way that the operator of a motor vehicle can read the menu sign from the vehicle and have a two-way communication with the service attendant. Menu signs shall be at least five feet from the property line, shall have only one face, shall not exceed 50 square feet in sign area, and shall not exceed eight feet in height. The area of such signs shall not be counted towards the maximum allowable signage.

(d) *Search lights.* Revolving beacons and search lights may be permitted for special events in industrial and commercial properties. They shall be permitted no more than six days of a calendar year and shall be directed away from residential areas and public streets. A temporary sign permit (no fee) is required from the zoning administrator.

(e) *Through lots.* Through lots shall be permitted two monument signs, one on each frontage. Each ground sign must oriented towards its respective frontage.

(f) *Temporary signs.*

(1) Temporary use of portable or moveable signs shall be allowed in excess of and in addition to the sign limitations of this section.

(2) Temporary signs shall comply with the following general provisions:

a. A permit is required prior to the placement or installation of temporary signage.

b. A permit shall be obtained from the zoning administrator for each location and time period for placement of such signs. A fee may be established by council resolution. A permit shall be valid for a period of eight consecutive days and signage shall be removed upon expiration of the permit.

c. All requests for temporary signage shall be applied for by the property owner/manager.

d. No business shall be allowed more than eight such periods in any 12-month period. Multitenant business centers may have eight such periods in any 12-month period per business which has an exclusive exterior entrance. Businesses within multitenant centers may transfer unused permits to other businesses on the same subject property.

e. Such signs shall be limited to 32 square feet in area.

f. Such signs shall only be permitted in B-1, B-2, and B-3, M-1, and M-2 zoning districts.

g. Temporary ground signs shall be set back a minimum of five feet from property lines. temporary signs shall not encroach into the required sight triangle as defined by section 5-20(b).

h. Temporary signs shall be located on the property which the advertising pertains to.

i. All temporary signs must be maintained and not frayed, torn or tattered.

j. Temporary signage shall adhere to the regulations set forth in section 10-1698.

(g) *Franchise architecture.* Exterior façade colors shall be predominately muted shades of color that are subtle, neutral, or earth tone. Colors shall be uniformly distributed on each façade of the building. The exterior design may substitute natural stone or unpainted brick for painted colors. The use of high intensity fluorescent colors is prohibited. Traditional primary colors (red, blue and yellow) may be used for accents that comprise less than five percent of a façade. For the purposes of this section, muted colors, also referred to as desaturated or subdued colors, are ones that have been softened by adding gray or a complementary color to reduce their brightness and intensity.
(Code 2015, § 10.87(6); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013; Ord. No. O-2024-0226-2, 2-26-2024)

Sec. 10-1700. Administration and enforcement.

(a) This section shall be enforced pursuant to article XI, division 7, of this chapter.

(b) The zoning administrator may grant administrative variances from the monument sign requirements for uses in existence on the effective date of the ordinance from which this chapter is derived if a valid hardship is constituted by article XI, division 5, of this chapter. The zoning administrator's decision may be appealed to the city council.

(Code 2015, § 10.87(7); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-1701. Nonconforming signs.

Any sign legally existing on the effective date of the ordinance from which this section is derived which does not conform to the requirements set forth in this section shall be considered a nonconforming sign. Nonconforming signs shall comply with the following requirements:

(1) Normal maintenance of signs shall be allowed including the repair, replacement, and repainting of a sign face, lettering, or other sign material, so long as the location, configuration, and sign area of the sign remain the same. Existing signs painted directly on an exterior building as an off-premises advertising sign, deemed by the council as having historical or cultural value, may be restored to its original condition in repainting.

(2) Nonconforming ground/pylon signs or pylon sign structures may continue to be used for signage until the business operating the principal use of the property changes and sign changes are proposed or redevelopment of the property occurs, unless otherwise provided for in the B-1 and B-2 zoning districts.

(Code 2015, § 10.87(8); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-1702. Landscaping requirements.

The ground area around the base or the base of the sign of the monument and ground/pylon signs shall be landscaped with shrubs and ground cover equal to the area of the 50 percent of sign face. The landscaping shall consist of shrubs and ground covers that can withstand the environmental conditions of the site, will provide seasonal interest.

(Code 2015, § 10.87(9); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-1703. District permitted on-premises signs.

(a) T districts shall permit the following: One nameplate or professional identification of not more than one square foot in size identifying the owner or occupant.

(b) R-1, R-2, R-3, and R-4 districts shall permit the following:

(1) One nameplate or professional identification sign or not more than one square foot in size in identifying the owner or occupant.

(2) Religious uses, fraternal or civic uses, public institutions, nonresidential, or residential development uses identification signs not exceeding 32 square feet in area. Such identification signs may be wall or ground-mounted or combination thereof. A monument sign shall not exceed eight feet in height. There may be a second sign if the use abuts two or more public streets.

(3) A landscaping area shall be provided around the base of the sign in accordance with section 10-1702.

(c) R-T districts shall permit the following: One nameplate or professional identification of not more than one square foot in size identifying the owner or occupant.

(d) OR districts shall permit the following:

(1) The following shall apply to non-office uses:

a. Religious uses, fraternal or civic uses, public institutions, or residential developments identification signs not exceeding 32 square feet in area. Such identification signs may be wall or monument-mounted or combination thereof. There may be a second sign if the use abuts two or more public streets.

b. The maximum height of a monument sign shall not exceed eight feet.

c. A landscaping area shall be provided around the base of the sign in accordance with section 10-1702.

(2) The following shall apply to office uses:

a. The total area of business or office signs shall not exceed the front linear frontage of the lot.

b. Maximum height of a monument sign shall not exceed eight feet.

c. No more than two signs shall be permitted, not more than one being a monument sign.

d. A landscaping area shall be provided around the base of the sign in accordance with section 10-1702.

(e) Institutional overlay districts shall permit the following:.

(1) Religious uses and public institution identification signs not exceeding 32 square feet in area. Such identification signs may be wall or monument-mounted or combination thereof. A monument sign shall not exceed eight feet in height. There may be a second sign if the use abuts two or more public streets.

(2) A landscaping area shall be provided around the base of the sign in accordance with section 10-1702.

(f) O districts shall permit the following:

(1) Wall or ground signs identifying the name or type of business.

(2) The total area of business or office signs shall not exceed the front linear frontage of the lot.

(3) Maximum height of a monument sign shall not exceed eight feet.

(4) No more than two signs shall be permitted, not more than one being a monument sign.

(5) A landscaping area shall be provided around the base of the sign in accordance with section 10-1702.

(g) CBD-C and CBD-F districts shall permit the following: The maximum total signage area of all signs and franchise architecture should not exceed more than two times the front linear frontage of the lot.

(1) Monument signs.

a. Monument signs greater than eight feet in height shall be constructed with the entire bottom of the sign structure in contact with the ground. The bottom two feet of such signs shall be Kasota Stone, precast concrete, brick, or landscaping masonry blocks that are earth tone colors. A solid continuous background area should be provided from the ground to the top of the sign either a combination of Kasota Stone, precast concrete, brick, stone, landscaping blocks, or metal shroud which matches the appearance and color of the principal building.

b. Monument sign height may be ten percent of the front linear frontage of a lot with not less than ten feet required or more than 15 feet permitted.

c. No more than one monument sign shall be permitted per zoning lot except through lots.

d. The square foot area of such sign shall not exceed the front linear frontage of the zoning lot.

e. The sign face shall occupy at least 50 percent of the monument sign.

f. A landscaping area shall be provided around the base of the sign in accordance of section 10-1702.

g. Signs should exhibit a sense of continuity through the use of a uniform color of the metal surround. Monument signs should be required to be constructed of materials of either the same as the principal structure or appear the same. The use of Kasota Stone or matching precast concrete is encouraged within the composition of the sign and implementing such materials will reduce the landscaping requirements of section 10-1702 by 50 percent.

h. Monument signs shall be set back a minimum of five feet from property lines.

i. Multitenant business centers will be allowed to have one joint identification monument sign.

(2) Wall signs.

a. Wall signs on any building shall not exceed ten percent of the wall area used for retail purposes.

b. Wall signs may be located on each wall of a building. Signs facing residential zoning districts shall be nonilluminated.

c. Multitenant business centers may have one wall sign per business which has an exclusive exterior entrance. A second wall sign may be allowed if a tenant has an additional exclusive exterior entrance on a second wall. All wall signs shall not exceed more than ten percent of the wall area.

d. Projecting signs, including canopy and awning signs, as well as wall signs, will be permitted within the CBD-C and CBD-F districts. Projecting signs and awnings shall have a minimum clearance of seven feet above a public sidewalk, provided that the requirements of chapter 14, article II, division 2 are met. Such signs shall not project more than six feet from the building. The entire awning shall be counted towards the maximum sign area if the awning is internally lit.

e. Wall signs shall not project above the roof level.

(h) B-1 districts shall permit the following: The maximum total signage area of all signs and franchise architecture should not exceed more than two times the front linear frontage of the lot.

(1) Monument signs.

a. Monument signs greater than eight feet in height shall be constructed with the entire bottom of the sign structure in contact with the ground. The bottom two feet of such signs shall be Kasota Stone, precast concrete, brick, or landscaping masonry blocks that are earth tone colors. A solid continuous background area should be provided from the ground to the top of the sign with either a combination of Kasota Stone, precast concrete, brick, stone, landscaping blocks, or metal shroud which matches the appearance and color of the principal building.

b. Monument sign height may be ten percent of the front linear frontage of a lot with not less than ten feet required or more than 15 feet permitted.

c. No more than one monument sign shall be permitted per zoning lot, except through lots.

d. The square foot area of such signs shall not exceed the front linear frontage of the zoning lot.

e. The sign face shall occupy at least 50 percent of the monument sign.

f. A landscaping area shall be provided around the base of the sign in accordance with section 10-1702.

g. Signs should exhibit a sense of continuity through the use of a uniform color of the metal surround. Monument signs should be required to be constructed of materials of either the same as the principal structure or appear the same. The use of Kasota Stone or matching precast concrete is encouraged within the composition of the sign and implementing such materials will reduce the landscaping requirements of section 10-1702 by 50 percent.

h. Monument signs shall be set back a minimum of five feet from property lines.

i. Multitenant business centers will be allowed to have one joint identification monument sign.

j. Ground signs in existence on the effective date of the ordinance that are greater than eight feet in height shall conform to the following upon the occurrence of a change in the business operating the principal use and sign changes are proposed:

1. The support of the sign shall provide a continuous background of at least one-third of the sign width, accomplished by a metal shroud or another approved means.
2. The base of the signs must consist of a raised planting bed or planter made of brick, stone, landscaping masonry blocks.
3. The sign shall conform to the height standards of this district.

Upon the redevelopment of any property, the ground sign shall conform with monument sign requirements of this section.

(2) Wall signs.

a. Total wall signage on any wall of any building shall not exceed ten percent of the respective wall area.

b. Wall signs may be located on each wall of a building. Signs facing residential zoning districts shall be nonilluminated.

c. Wall signs shall not project above the roof level.

d. Wall signs shall not project in excess of 12 inches with the exception of canopies or awnings that do not overhang the public right-of-way.

e. Projecting signs, including canopy and awning signs, shall only be allowed in the following areas of the B-1, Community Business District: Properties located on both sides of North Riverfront Drive from Spring Street to Madison Avenue and both sides of Front Street from Liberty Street to Marshall Street (refer to exhibit A of the ordinance from which this division is derived.) provided such signs conform to the Urban Design Framework Manual. Projecting signs and awnings shall have a minimum clearance of seven feet above a public sidewalk. Such signs shall not project more than six feet from the building and the sign area of projecting signs shall not exceed 32 square feet. The entire canopy or awning shall be counted towards the maximum sign area if the awning is internally lit.

(i) B-2 districts shall permit the following: The maximum total signage area of all signs and franchise architecture should not exceed more than two times the front linear frontage of the lot.

(1) Monument signs.

a. Monument signs greater than eight feet in height shall be constructed with the entire bottom of the sign structure in contact with the ground. The bottom two feet of such signs shall be Kasota Stone, precast concrete, brick, or landscaping masonry blocks that are earth tone colors. A solid continuous background area should be provided from the ground to the top of the sign with a combination of either Kasota Stone, precast concrete, brick, stone, landscaping blocks, or metal shroud which matches the appearance and color of the principal building.

b. Monument sign height may be ten percent of the front linear frontage of a lot with a maximum height not to exceed 15 feet.

c. No more than one monument sign shall be permitted per zoning lot, except through lots.

d. The square foot area of such signs shall not exceed the front linear frontage of the zoning lot.

e. The sign face shall occupy at least 50 percent of the monument sign.

f. A landscaping area shall be provided around the base of the sign in accordance with section 10-1702.

g. Signs should exhibit a sense of continuity through the use of a uniform color of the metal surround. Monument signs should be required to be constructed of materials of either the same as the principal structure or appear the same. The use of Kasota Stone or matching precast concrete is encouraged within the composition of the sign and implementing such materials will reduce the landscaping requirements of section 10-1702 by 50 percent.

h. Monument signs shall be set back a minimum of five feet from property lines.

i. Multitenant business centers will be allowed to have one joint identification monument sign.

j. Existing nonconforming signs.

1. Ground signs in existence on the effective date of the ordinance from which this division is derived that are greater than eight feet in height shall conform to the following upon the occurrence of a change in the business operating the principal use and sign changes are proposed:

(i) The support of the sign shall provide a continuous background of at least one third of the sign width, accomplished by a metal shroud or another approved means.

(ii) The base of the signs must consist of a raised planting bed or planter made of brick, stone, landscaping masonry blocks.

(iii) The sign shall conform to the height standards of this district.

2. Upon the redevelopment of any property, the ground sign shall conform with monument sign requirements of this section.

k. Properties abutting an elevated four-lane highway may have a monument sign 20 feet in height.

(2) Wall signs.

a. Total wall signage on any wall of any building shall not exceed ten percent of the respective wall area.

b. Wall signs may be located on each wall of a building. Signs facing residential zoning districts shall be nonilluminated.

c. Wall signs shall not project above the roof level.

d. Wall signs shall not project in excess of 12 inches with the exception of canopies or awnings that do not overhang the public right-of-way.

(j) B-3 districts shall permit the following: The maximum total signage area of all signs and franchise architecture should not exceed more than three times the front linear frontage of the lot.

(1) Monument signs.

a. Monument signs greater than eight feet in height shall be constructed with the entire bottom of the sign structure in contact with the ground. The bottom two feet of such signs shall be Kasota Stone, precast concrete, brick, or landscaping masonry blocks that are earth tone colors. A solid continuous background area should be provided from the ground to the top of the sign with a combination of either Kasota Stone, precast concrete, brick, stone, landscaping blocks, or metal shroud which matches the appearance and color of the principal building.

b. Monument sign height may be a maximum of 20 feet.

c. No more than one monument sign shall be permitted per zoning lot except through lots.

d. The square foot area of such signs shall not exceed the front linear frontage of the zoning lot.

e. The sign face shall occupy at least 50 percent of the monument sign.

f. A landscaping area shall be provided around the base of the sign in accordance with section 10-1702.

g. Signs should exhibit a sense of continuity through the use of a uniform color of the metal surround. Monument signs should be required to be constructed of materials of either the same as the principal structure or appear the same. The use of Kasota Stone or matching precast concrete is encouraged within the composition of the sign and implementing such materials will reduce the landscaping requirements of section 10-1702 by 50 percent.

h. Monument signs shall be set back a minimum of five feet from property lines.

i. Multitenant business centers will be allowed to have one joint identification monument sign.

(2) Pylon/ground signs.

a. A zoning lot which has a front linear frontage of greater than 500 feet may have a ground/pylon sign and a monument sign or two monument signs.

b. A zoning lot which has front linear frontages of greater than 500 feet on multiple property frontages may have a ground/pylon or a monument sign on each frontage that exceeds 500 feet, provided the total number of ground/pylon signs on the property shall not exceed four signs.

c. Ground/pylon signs may not exceed more than 30 feet high. Pylon signs may exceed district height standards, provided that the maximum height to the top of the sign shall not exceed 15 feet above the grade elevation of such elevated four lane state or federal highway directly adjacent to such property on which the sign is positioned with a conditional use permit. Such signs shall apply towards the maximum number of monument/pylon signs permitted on the property.

d. Ground/pylon signs shall be set back a minimum of five feet from property lines.

e. The structural supports for such signs must be covered or concealed with pole covers.

(3) Wall signs.

a. Total wall signage on any wall of any building shall not exceed ten percent of the respective wall area.

b. Wall signs may be located on each wall of a building. Signs facing residential zoning districts shall be nonilluminated.

c. Wall signs shall not project above the roof level.

d. Wall signs shall not project in excess of 12 inches with the exception of canopies or awnings that do not overhang the public right-of-way.

(k) PI, M-1 and M-2 districts shall permit the following: The maximum total signage area of all signs and franchise architecture should not exceed more than two times the front linear frontage of the lot.

(1) Monument signs.

a. Monument signs greater than eight feet in height shall be constructed with the entire bottom of the sign structure in contact with the ground. The bottom two feet of such signs shall be Kasota Stone, precast concrete, brick, or landscaping masonry blocks that are earth tone colors. A solid continuous background area should be provided from the ground to the top of the sign with a combination of either Kasota Stone, precast concrete, brick, stone, landscaping blocks, or metal shroud which matches the appearance and color of the principal building.

b. Monument signs may not exceed more than 15 feet.

c. No more than one monument sign shall be permitted per zoning lot, except through lots.

d. The square foot area of such signs shall not exceed the front linear frontage of the zoning lot.

e. The sign face shall occupy at least 50 percent of the monument sign area.

f. A landscaping area shall be provided around the base of the sign in accordance with section 10-1702.

g. Signs should exhibit a sense of continuity through the use of a uniform color of the metal surround. Monument signs should be required to be constructed of materials of either the same as the principal structure or appear the same. The use of Kasota Stone

or matching precast concrete is encouraged within the composition of the sign and implementing such materials will reduce the landscaping requirements of section 10-1702 by 50 percent.

h. Monument signs shall be set back a minimum of five feet from property lines.

i. Multitenant business centers will be allowed to have one joint identification monument sign.

(2) Wall signs.

a. Total wall signage on any wall of any building shall not exceed ten percent of the respective wall area.

b. Wall signs may be located on each wall of a building. Signs facing residential zoning districts shall be nonilluminated.

c. Wall signs shall not project above the roof level.

d. Wall signs shall not project in excess of 12 inches with the exception of canopies or awnings that do not overhang the public right-of-way.

(Code 2015, § 10.87(10); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 7-12-2004; Ord. of 7-11-2011; Ord. of 1-14-2013; Ord. of 9-22-2014)

Sec. 10-1704. Off-premises signs (outdoor advertising).

(a) Off-premises signs shall be permitted in the B-3, M-1, and M-2 districts located along designated state and federal highways, provided that the standards in Letter C of this section are met.

(b) Existing off-premises signs located within the B-3, M-1, and M-2 districts may be moved or reconstructed pursuant to a conditional use permit and, provided that the new sign would be located along the same right-of-way, is located within the continuous zoning district as the existing sign, and complies with subsection (c) of this section.

(c) Off-premises signage shall meet the following standards:

(1) Shall be located on a platted lot and considered to be the principal use of the property.

(2) Shall be allowed only in areas adjacent to a state or federal highway.

(3) Shall not be allowed within 1,000 feet of the middle of intersecting rights-of-way of principal arterials as defined by Figure 10 of the adopted city transportation plan and 300 feet from the middle of other intersecting roadways.

(4) Shall not exceed 700 square feet in total area. Maximum allowable signage shall be computed on the basis of one side of any double-faced sign.

(5) Shall not exceed 30 feet in height. Sign height shall be measured from ground grade elevation to the highest point of the sign. Signs abutting an elevated highway may exceed

the maximum height requirement, provided that the top of the sign shall not exceed 15 feet above the grade elevation of such elevated four lane highway directly adjacent to such property on which the sign is positioned.

(6) Shall not be within 200 feet of a residential zoning district, park, playground, school, or building used for religious purposes.

(7) Signs on the same side of the highway shall have a minimum separation of 1,500 linear feet. This may be reduced to 1,000 feet if an existing nonconforming off-premises sign located within the city is removed.

(8) Shall be set back from all street right-of-way lines a minimum of 20 feet, except as provided in subsection (c)(9) of this section.

(9) When a sign is to be located along a designated highway, where such sign is not adjacent to a front property line, there shall be a minimum setback of five feet.

(10) The area around a ground/pylon-mounted off-premises sign shall be appropriately landscaped in accordance with section 10-1703.

(11) All ground/pylon support structures shall be monopole design and shall meet appropriate building codes pertaining to the general provisions of this section. The exposed upright or superstructure shall be painted a neutral color.

(12) Lighting for such signs shall comply with section 10-1774.

(13) Off-premises signs located on a roof shall not be permitted.

(14) Shall not be allowed within 1,320 feet of areas designated as Minnesota River Valley Scenic Byway as designated by the Federal Highway Administration.

(d) Off-premises signs for neighboring businesses. Off-premises ground signs for businesses that are adjacent to one another may be permissible with the following conditions:

(1) The sign height of a ground sign may be 125 percent of the maximum sign height for the zoning district.

(2) The sign area for the signs may be the cumulative area of the allowable signage for all businesses.

(3) The design and setbacks of such signs must conform with the other provisions of this article.

(4) The sign will count as the ground sign for each property.

(Code 2015, § 10.87(11); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 9-10-2007; Ord. of 1-14-2013)

Sec. 10-1705. Downtown Design Review District.

(a) Any erection of a sign in the Downtown Design Review District shall comply with guidelines in article VI, division 2, of this chapter and with the standards established by the city council in the Urban Design Framework Manual and a sign plan shall be submitted denoting the location, size, number, and color of proposed signs.

(b) The design, color, and materials of signage shall be consistent with the building, its surroundings and the historical character of the area.

(c) No sign shall obscure the architectural features of the building it is attached to.

(d) Pylon signs are not permitted in the Downtown Design Review District.
(Code 2015, § 10.87(12); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-1706. Skyline Logo District.

(a) *Purpose.* The Skyline Logo District is intended to allow for limited installation of high-quality, aesthetically-appealing skyline logos upon the rooftop of buildings within the district. The city council finds that the area's visibility, public and private assets, and economic importance gives rise to the need for a special approach to allowing for unique rooftop signage in this area. Skyline logo signage shall achieve the following:

(1) Complement the architectural elements of the buildings upon which they are located.

(2) Promote the goals of adopted plans and strategies for redevelopment and livability within the district.

(3) Protect the defining character of historically-significant buildings, as per the standards of section 10-1508.

(b) *District established.* The Skyline Logo District shall include the areas as-noted upon the Skyline Logo District Map.

(c) *Conditional use permit required.* Any skyline logo shall require review and approval of a conditional use permit by the city council prior to fabrication or installation. An application for a conditional use permit for skyline logo shall include the following information and materials for review:

(1) Narrative describing proposed skyline logo and its connection to the building or business and how it will enhance the community and livability of the district.

(2) Proposed sign design, materials, dimensions, layout, and graphics.

(3) Proposed illumination or lighting, if any.

(4) Structural engineering details, including system for anchoring to rooftop, prepared and signed by a registered professional engineer.

(5) Plan denoting location upon building rooftop.

(6) Rendering of proposed sign as visible from the highest, lowest, and average elevation points within one-quarter mile visible from a public roadway or sidewalk.

(7) For properties designated as heritage preservation landmarks by the city heritage preservation commission, a statement of review and approval of the heritage preservation commission.

(d) *Eligible properties.* Applicants for skyline logo signage shall meet the following requirements for eligibility:

(1) The building which the skyline logo is to be located upon shall have a minimum height of three stories, as measured from grade, or have height and location sufficient for exposure and sightlines to be visible per the review of the planning commission.

(2) The building is not within 200 feet of another building which has an approved skyline logo, unless it is determined by the planning agency and city council that a reduced spacing complies with the purpose and intent of this article and adopted plans of the city.

(3) If the building has been designated as a heritage preservation landmark by the city heritage preservation commission, per the standards of section 10-1508, the applicant must have approval of the heritage preservation commission to pursue the proposed skyline logo.

(e) *Design criteria.* Skyline logos shall adhere to the following design criteria:

(1) Skyline logos may only be located upon a building rooftop and shall be permanently affixed to the roof.

(2) Only three-dimensional symbols, graphics, or figures may be allowed. Panel or box signs and text or commercial advertising or display are prohibited.

(3) Any illumination must be constant and may not flash.

(4) Electronic or dynamic message displays or panels are prohibited.

(5) The skyline logo shall comply with section 10-1773 and 10-1774.

(f) *Size and location.* Skyline logos shall adhere to the following size and location criteria:

(1) Skyline logos may have a maximum square footage of 25 percent of the average of the wall area of exterior walls adjacent to public streets or alleys.

(2) Skyline logos and associated structural support elements may not block or otherwise impede necessary roof access points.

(Code 2015, § 10.87(13); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Secs. 10-1707—10-1735. Reserved.

DIVISION 8. LANDSCAPING AND SCREENING

Sec. 10-1736. General landscaping and maintenance requirements.

(a) All undeveloped lots and parcels shall be mowed and kept free of accumulation of garbage, trash, refuse, debris, and other unsightly or nuisance creating materials until developed. Except for accessory uses expressly permitted to be located in required yards, all yards and open spaces between and about structures and off-street parking lots and loading areas shall be landscaped and kept free from accumulations of garbage, trash, refuse, debris, and other unsightly or nuisance

creating materials. All landscaping shall be continually maintained by the owner or other person responsible for maintenance of the premises, and all planting areas shall be kept free of weeds and debris.

(b) All planting material shall be of good quality, of species normally grown in the state and capable of withstanding the extremes of individual site microclimates. All specifications for measurement, quality, and installation of trees and shrubs shall be in accordance with the American Standards for Nursery Stock, published by the American Association of Nurserymen.

(c) Landscaping and screening required by this section shall be interrupted only by required access drives and sidewalks. All landscaping and screening required by this section shall be so designed and maintained as to preserve unobstructed vision of the street and sidewalk at points of access and as not to interfere with, or be damaged by, work within any public or utility easement unless the zoning administrator shall determine that no other location is reasonably feasible.
(Code 2015, § 10.88(1))

Sec. 10-1737. Applicability.

A landscaping plan, and the implementation and maintenance of such plan, shall be required for all uses, except for one- and two-family dwellings.
(Code 2015, § 10.88(2))

Sec. 10-1738. Landscape plans.

Wherever the submission and approval of a landscape plan is required by this article, the landscape plan and its maintenance shall be part of the certificate of occupancy. No certificate of occupancy shall be issued without approval of a landscape plan. Failure to implement the approved landscape plan within six months of the issuance of a certificate of occupancy shall be cause for revocation of the certificate of occupancy pursuant to section 10-1983.

(1) *Content of landscape plan.* All landscape plans submitted for approval shall contain or have attached thereto the following information:

a. The location and dimensions of all existing and proposed structures, parking lots and drives, roadways and rights-of-way, sidewalks, bicycle paths, ground signs, refuse disposal areas, bicycle parking areas, fences, freestanding electrical equipment, tot lots and other recreational facilities, and other freestanding structural features as determined necessary by the zoning administrator.

b. The location, quantity, size and name, both botanical and common names, of all proposed planting materials.

c. The location of existing buildings, structures, and plant materials on adjacent property within 100 feet of the site.

d. Existing and proposed grading of the site, including proposed berming, indicating contours, at one-foot intervals.

e. Specification of the type and boundaries of all proposed ground cover.

f. Elevations of all fences proposed for location on the site.

g. Irrigation plan.

h. Elevations, cross sections and other details as determined necessary by the zoning administrator.

(2) *Design criteria.* Landscaping plans described above shall be prepared based on the following design criteria. The evaluation and approval of landscape plans shall also be based on these design criteria.

a. *Scale and nature of landscaping material.* The scale and nature of landscaping materials should be appropriate to the size of the structures. Large-scale buildings, for example, should generally be complemented by larger scaled plants. Landscaping of larger areas, such as required yards, should be accomplished by both horizontal landscaping elements, such as planting beds, and vertical landscaping elements, such as trees, berms, and fences.

b. *Selection of plant material.* Plant material should be selected for its form, texture, color, and concern for its ultimate growth. The use of Silver Maples, Box Elders, Russian Olives, Tree of Heaven, Mulberry, Poplars, and other weak wooded species should be avoided.

c. *Evergreens.* Evergreens should be incorporated into the landscape treatment of a site, particularly in those areas screening parking lots from dedicated public rights-of-way or property zoned for residential use. All evergreens shall have a minimum height of six feet.

d. *Shade trees.* All shade trees shall have a minimum trunk size at the time of installation of 2 ½ inches in diameter, as measured by a caliper six inches above the established ground level.

e. *Softening of walls and fences.* Plant material should be placed intermittently against long expanses of building walls, fences, and other barriers to create a softening effect.

f. *Planting bed.* Planting beds should be mulched with bark chips, rock mulch, feather rocks, or similar materials.

g. *Detention, retention, basins, and ponds.* Detention/retention basins and ponds shall be landscaped. Such landscaping should include shade and ornamental trees, evergreens, shrubbery, hedges, or other planting materials.

h. *Watering plant material.* A permanent means of watering plant material should be provided. Installation of an underground irrigation system is recommended.

i. *Energy conservation.*

1. Deciduous trees should be placed on the south and west sides of buildings and parking lots to provide shade from the summer sun.

2. Evergreens and other similar plant materials should be concentrated on the north side of buildings to dissipate the effect of winter winds.

j. *Preservation of existing plant material.* Existing plant material should, wherever practical as determined by the zoning administrator, be incorporated into the landscape treatment of a site.

k. *Berming.* Earthen berms, and existing topography should be, whenever determined practical by the zoning administrator, incorporated into the landscape treatment of a site, particularly when combined with plant material to facilitate screening from adjacent residential uses. Berms should be designed to allow for maintenance, mowing, and adequate drainage. The elevation and horizontal ground location of the berm should be varied in order to mimic a natural topographical feature.

l. *Fencing and walls.* Fencing and walls shall conform to the restrictions of this section. When fencing is used to screen uses, the outside base of the fence or wall shall be landscaped.

(Code 2015, § 10.88(3); Ord. of 9-10-2012)

Sec. 10-1739. Transitional yards.

Except as expressly provided elsewhere in this article, every transitional yard shall extend along the entire length of the lot line and shall be designed and maintained to function as a buffer area. Every required transitional yard shall consist of a combination of ground cover, shade trees, evergreen trees and shrubs, and appropriate screening devices such as decorative walls, fences, or berms. Areas not planted with shrubs, trees, or other appropriate screening devices shall be maintained with living ground cover.

(Code 2015, § 10.88(4))

Sec. 10-1740. Perimeter landscaping; off-street parking lots.

(a) Every off-street parking lot containing four or more parking stalls shall be buffered and screened by perimeter landscaping consisting of an area at least three feet or greater in height as required in the yard and setback standards of each zoning district. The required perimeter landscaping area shall be measured from the back curb and excludes any parking space overhang area. The perimeter landscaping shall consist of a combination of ground cover, shade trees or evergreen trees, shrubs, and appropriate screening devices such as decorative walls, fences, or berms. Shade trees shall be provided at a rate of one tree for every 50 linear feet of perimeter length or fraction thereof. Evergreen trees shall be provided at a rate of one tree and shrub for every 25 linear feet of perimeter length of fraction thereof. Evergreen trees shall be maintained at a height of not less than six feet. Subject to approval by the zoning administrator, ornamental trees and shrubs may be substituted for shade trees and evergreens. Areas not planted with shrubs, trees, or other appropriate screening devices shall be maintained with living ground cover, or planting beds with bark or rock mulch.

(b) Off-street parking areas for more than four vehicles shall be effectively screened by a fence or densely planted hedge on each side of a parking area that adjoins or faces any property located in a residential district, unless such property is developed with a nonresidential use. Such fence or hedge shall be not less than four feet nor more than eight feet in height, nor be less than 80 percent

opaque. If plant material is used to satisfy this screening requirement, opacity shall be effective within one year of the construction of the parking lot. Such screen shall be maintained in a good and sightly condition.
(Code 2015, § 10.88(5))

Sec. 10-1741. Interior landscaping; off-street parking lots.

Every off-street parking lot providing 50 spaces or more shall provide interior landscaping. Interior landscaping shall consist of planting islands with a minimum area of 60 square feet and a minimum width of six feet, measured from the back of curb to back of curb. The interior landscaping shall constitute at least five percent of the area of the parking lot. Area devoted to perimeter landscaping shall not be considered as any part of interior landscaping. Where more than one planting island is provided, such islands shall be appropriately spaced throughout the parking lot. As part of site plan review, pursuant to article X, division 10, of this chapter, interior landscaping may be required for off-street parking lots containing less than 50 spaces.
(Code 2015, § 10.88(6))

Sec. 10-1742. Off-street loading areas.

Every off-street loading area visible from any lot zoned for residential use or visible from any public street, shall be screened on all sides visible from such lot or street by an opaque fence, wall, or densely planted evergreen hedge of not less than six feet in height, except as necessary for access.
(Code 2015, § 10.88(7))

Sec. 10-1743. Refuse containers.

All refuse and recyclable material containers, except those containers used by a one-family dwelling in connection with the municipal refuse collection service or those containers used on a temporary basis for a construction or disposal activity, shall be fully enclosed by a gated opaque fence or wall of a sufficient height to completely screen such containers from view by all adjoining properties and all streets. The fence or wall shall have an exterior finish that is similar to the material found on the exterior walls of the main building on the property or other approved material as determined by the zoning administrator. The outside base of the wall or fence shall be landscaped if the wall or fence fronts on a public street. No refuse or recyclable material containers shall be located between any front or corner side yard.
(Code 2015, § 10.88(8))

Sec. 10-1744. Antennas and support structures.

Ground-mounted antennas and antenna support structures shall be buffered and screened by a fence and a densely planted evergreen hedge of not less than six feet in height along with any other landscaping materials as may be needed. Such screening shall be provided between any such ground-mounted antennas and antenna support structure and each lot line of the property on which

such antenna or antenna support structure is located so as to provide the maximum reasonably achievable screening of such antenna and antenna support structure from view by adjacent properties and public or private streets.
(Code 2015, § 10.88(9))

Sec. 10-1745. Rooftop mechanical equipment.

Except for roof-mounted antennas, all mechanical equipment located on the roof of any building constructed after the effective date of the ordinance from which this chapter is derived and exceeding six feet in height shall be completely screened to the full height of such equipment by a parapet wall or other screening structure constructed of the same or similar materials as the principal building façade.
(Code 2015, § 10.88(10))

Sec. 10-1746. Fences.

No fence or wall shall be erected, enlarged, expanded, altered, relocated, maintained, or repaired in any yard unless it shall first meet the requirements of this section.

(1) *Construction.*

a. *Prohibited material.* No fence or wall shall be constructed of any electrically charged element or barbed wire, except that in the industrial districts barbed wire may be used above a height of 6 ½ feet when incorporated with a permitted fence or wall.

b. *Approved material.* All fences in residential districts shall be constructed of stone, brick, finished wood, or chain link. The finished side of the fence, or that side of the fence without exposed supports or posts, shall face the neighboring properties or streets.

c. *Maintenance.* Every fence or wall shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence or wall shall be repaired or replaced immediately.

(2) *Height.*

a. *Side and rear yards.* No fence or wall located in a side or rear yard shall be of a height exceeding eight feet, measured from its top edge to the ground at any point.

b. *Front yards.* No fence or wall located in a front yard shall be of a height exceeding four feet, measured from its top edge to the ground at any point. However, in the industrial district, chain link security fencing may be installed at a height greater than four feet provided such fencing shall not exceed eight feet.

(3) *Setbacks.*

a. A fence may be located adjacent to, but not on, a property line.

b. No fence, wall, hedge, or other screening device shall be permitted to encroach on any public right-of-way or be in violation of section 5-20.

(Code 2015, § 10.88(11))

Secs. 10-1747—10-1770. Reserved.

DIVISION 9. PERFORMANCE STANDARDS

Sec. 10-1771. General requirements.

All uses shall comply with the performance standards established in this division unless any federal, state, county, or city law, ordinance, or regulation establishes a more restrictive standard, in which case the more restrictive standard shall apply.
(Code 2015, § 10.89(1))

Sec. 10-1772. Noise.

Any activity or operation of any use producing noise, other than ordinary vehicle noise, shall be conducted so that no noise from the activity shall be deemed a public nuisance, as declared by the city council.
(Code 2015, § 10.89(2))

Sec. 10-1773. Glare and heat.

Any activity or operation of any use producing glare or heat shall be conducted so that no glare or heat from the activity or operation shall be detectable at any point off the zoning lot on which the use is located. Flickering or intense sources of light shall be controlled or shielded so as not to cause a nuisance across lot lines.
(Code 2015, § 10.89(3))

Sec. 10-1774. Exterior lighting.

(a) *Purpose and intent.* The purpose of this section is to create standards for outdoor lighting which will provide for nighttime safety, security and utility while reducing light pollution, light trespass, and conserving energy. It is the intent of this article to require appropriate lighting levels, efficient (watts to lumens) lighting sources, full cutoff lighting, and to minimize/discourage lighting glare, lighting pollution and lighting trespass.

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

Cutoff means the point at which all light rays emitted by a lamp, light source or luminaire is completely eliminated (cut off) at a specific angle above the ground.

Cutoff angle means the maximum angle formed by a line drawn in the direction of emitted light rays at the light source and a line perpendicular to the ground from the light source.

Footcandle means a unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

Full cutoff-type luminaire means a luminaire constructed or shielded to direct all light at a cutoff angle of less than 90 degrees. The term "full cutoff-type luminaire" is also referred to as a horizon limited luminaire.

Glare means direct light emitted from a light source which causes eye discomfort.

Light pollution means the shining of light produced by a luminaire above the height of the luminaire and into the sky.

Light trespass means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lighting districts means the districts as depicted on the official district lighting map. The official lighting district map shall be considered part of this article.

Luminaire means a complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

(c) *General standards.* In addition to the regulations specific to each lighting district outlined in subsection (g) of this section, the following provisions shall apply:

(1) *General standards for lighting on private property.*

a. No flashing light shall be permitted.

b. Light for outdoor advertising shall be designed to function as full cutoff luminaires. Lighting intended for outdoor advertising which projects light into the sky shall be prohibited. The temporary use of lasers and spotlights that project light into the sky may be allowed subject to the restrictions of temporary signs contained in article X, division 7, of this chapter.

c. Light sources or luminaires shall not be located within transitional yards except along pedestrian walkways.

d. All luminaires located on commercial, industrial, or institutional property shall be designed so that the light source (bulb or lamp) is completely shielded from direct view of an observer standing a point five feet above grade on the lot line abutting a transitional yard or at any location on residentially zoned property.

e. All luminaires located on private property shall be designed or positioned so that the maximum illumination at the property line shall not exceed one-half footcandle.

f. The use of exterior lighting for nonresidential uses shall observe the same hours of operation as the use itself, except that a minimum level of lighting for security purposes may be left on beyond the normal hours of operation.

g. Lighting for canopies covering fueling stations at automobile service stations and drive-through facilities shall not illuminate abutting properties and the luminaires shall be designed so that the light source (bulb or lamp) is completely shielded from direct view of an observer standing at the property line at a point five feet above grade.

h. Because of their unique requirement for nighttime visibility and their limited hours of operations, ball diamonds, playing fields and tennis courts are exempted from the

general standards of this section. Lighting for these outdoor recreational uses shall be shielded to minimize light and glare from spilling over onto adjacent residential properties. The maximum permitted illumination at the property line shall not exceed two footcandles.

i. As part of the approval of public street or sidewalk projects, the city council may vary from the requirements of this section.

j. The illumination levels contained in the Lighting Handbook, Illuminating Engineering Society of North America, as amended from time to time, shall be used as a guide for providing adequate and safe illumination levels. The city council may require conformance with the illumination levels contained in the Lighting Handbook, Illuminating Engineering Society of North America, as part of the review and approval of a private or public development project.

(2) *Method of measurement.*

a. Illumination levels shall be measured in footcandles with a meter sensor in a horizontal position at an approximate height of three feet above grade. Maximum illumination readings are to be taken directly beneath the luminaire. Readings should normally be taken after a cumulative initial lamp burn-in period of at least 200 hours. To determine minimum permitted illumination, illumination levels shall be measured in footcandles with a meter sensor in a horizontal position at an approximate height of three feet above grade. The point at which readings shall be taken is dependent upon the area classification and fixture arrangement as follows:

1. *Opposite spaced street lighting (requires two readings).* Readings should be taken as described above:
   (i) At the center of the street, equidistant between two sets of fixtures; and
   (ii) At the curbline equidistant between two fixtures on the same side of the street.

2. *Public sidewalks—Sharing a lighting system with the street.* Readings should be taken as described above at the farthest house side of the pavement, equidistant between two fixtures.

3. *Public sidewalks—Separate lighting system from street lighting.* Readings should be taken as described above in the center of the pavement, equidistant between two fixtures.

4. *Parking areas—Perimeter lit.* Readings should be taken as described above equidistant between two fixtures at the perimeter, as well as at the location of the property farthest from the fixtures.

5. *Parking areas—Centrally lit or combination of central/perimeter lighting.* Readings should be taken as described above in the center of large parking areas, equidistant between all of the fixtures illuminating the area. If perimeter lighting is also used, take readings as described in parking areas, perimeter lit.

b. In instances where only one fixture is located on a property, the minimum illumination level shall be measured in footcandles with a meter sensor in a horizontal position located approximately three feet above grade. Readings should be taken at the location on the property farthest from the fixture.

(d) *Exemptions.* The following are exempt from the standards contained in this section:

(1) Decorative seasonal lighting with a power rating of less than or equal to 75 watts.

(2) Lighting for one- and two-family dwellings, provided that the lamps have a power rating of less than or equal to 75 watts, a cutoff component is incorporated in the design of the luminaire, and the lighting level at the property line shall not exceed the maximum level contained in subsection (c) of this section. The maximum lighting level at the property line may be exceeded in cases where the lamp is turned on and off by a motion sensor and the lamp is not on for a continuous period exceeding ten minutes.

(3) Temporary emergency lighting used by police, firefighters, or other emergency services, as well as all vehicular luminaires.

(4) Hazard warning luminaires which are required by federal regulatory agencies.

(5) Lighting utilized for the purpose of illuminating the flag of the United States of America, provided each luminaire shall be limited to 150 watts, with a maximum number of two luminaires. The light fixtures shall incorporate a cutoff component in the design of the luminaire, and the light source shall be directed at the flag and arranged to minimize the amount of light pollution, trespass, or glare on to adjacent properties and public streets. This exemption shall apply only to flags displayed on flagpoles.

(e) *Exterior lighting plan required.*

(1) A lighting plan shall be required any time exterior lighting is proposed, or modified, that is associated with use of greater intensity than a one- or two-family dwelling. The lighting plan shall be submitted with the site plan information required in section 10-1812.

(2) The plan shall be prepared by a certified engineer, architect, landscape architect or lighting engineer or designer. The plan shall identify the location, size, type of luminaire, height of luminaire, a photometric plan of the site, and fixture data sheets. The plan shall also contain a certification by the property owner or agent and the preparer of the plan that the exterior lighting depicted on the plan complies with the requirements of this subsection. Once the plan is approved, the exterior lighting of the property shall conform to the plan.

(f) *Nonconforming luminaires.*

(1) Exterior lighting luminaires in existence on the effective date of the ordinance from which this chapter is derived shall be exempt from the standards of this section and shall be considered legally nonconforming. Such fixtures may be repaired and maintained; however, if any legal nonconforming luminaire is moved or damaged by any means to an extent that its total replacement is necessary, the luminaire, or replacement, shall comply with this section.

(2) Exterior lighting luminaires existing on the effective date of the ordinance from which this chapter is derived which are located on private commercially zoned property and are found to direct light or glare to private property located in a residential zoning district may be declared a public nuisance if the level of illumination on private property located in the residential zoning district, which is caused by the luminaire, is equal to or greater than one-half footcandle. Such fixtures shall be altered to reduce the level of illumination in the residential zoning district to less than one-half footcandle within six months of receiving a written notice of violation from the zoning administrator.

(g) *District standards.* The zones referred to in the standards are depicted on the official lighting map, as adopted as part of this section.

(1) *Downtown lighting district.* Luminaires located in the downtown lighting district shall have a design that allows not more than ten percent of the light from the luminaire to be projected above the fixture. Luminaires shall be designed to provide adequate pedestrian illumination levels as outlined in Lighting Handbook, Illuminating Engineering Society of North America. The appearance of luminaires shall be complementary and compatible with significant architectural features or themes found in the downtown lighting district.

(2) *General lighting district.* Luminaires located in the general lighting district (GLD) shall be designed to function as full cutoff luminaires and prevent light from the luminaire to be projected into the sky or across zoning lot lines. Exceptions to the full cutoff requirement of this district may be approved by the city council as part of the review and approval of an institutional overlay district, planned unit development, or street improvement. Standards for considering an exception include all of the following:

a. The proposed development or district is characterized by a high degree of pedestrian traffic.

b. The purpose and design of the luminaire are to provide adequate pedestrian illumination levels as outlined in Lighting Handbook, Illuminating Engineering Society of North America.

c. The purpose of the luminaire's design is to be compatible with significant architectural features or themes associated with the development or planning area.

d. No full cutoff of luminaire is available which is architecturally compatible with the development and provides adequate illumination levels for pedestrian traffic.

e. The design of the fixture incorporates a cutoff component which allows a minimal amount of light emitted from the luminaire to be projected above the height of the luminaire.

f. The luminaire shall comply with all other requirements of this section.

(Code 2015, § 10.89(4); Ord. of 8-25-1997, subd. 4)

Sec. 10-1775. Dust and air pollution.

(a) *Dust.* Dust and other types of air pollution borne by the wind from sources such as storage areas, yards, roads, bulk materials, conveying equipment and the like within lot boundaries shall be kept to a minimum by appropriate landscaping, screening, sheltering, paving, fencing, wetting, collecting, or other acceptable means.

(b) *Fugitive particulate matter.* No person shall cause or allow the emission or movement of fugitive particulate matter across the lot lines of a zoning lot. This requirement shall not apply when the wind speed is greater than 25 miles per hour.
(Code 2015, § 10.89(5))

Sec. 10-1776. Electromagnetic interference.

Electromagnetic interference from any operations of any use in any district shall not adversely affect the operation of any equipment located off the zoning lot on which such interference originates.
(Code 2015, § 10.89(6))

Sec. 10-1777. Odors.

The regulation of odors shall conform to state law.
(Code 2015, § 10.89(7))

Sec. 10-1778. Storage.

Except as specifically permitted by this article, all raw materials, supplies, finished or partially finished products, and equipment shall be stored within an enclosed building, unless the items are used in connection with an approved construction activity.
(Code 2015, § 10.89(8))

Sec. 10-1779. Compliance.

In order to ensure compliance with the performance standards set forth in this division, the zoning administrator may require an owner of any permitted or allowed use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigations and tests as are required to be made shall be carried out by an independent testing organization as may be agreed upon by all parties concerned, or, if there is failure to agree, by such independent testing organization as may be selected by the zoning administrator. The cost incurred in having such investigations or tests conducted shall be the responsibility of the owner or operator.
(Code 2015, § 10.89(9))

Secs. 10-1780—10-1806. Reserved.

DIVISION 10. SITE PLAN REVIEW

Sec. 10-1807. Authority.

Site plan review shall be required before building permits or certificates of occupancy may be issued. The planning director and zoning administrator shall have the authority to approve site plans upon consideration of all comments received from city departments, and may waive the require-

ments for site plan review for additions to existing buildings, structures, or uses, if, in the planning director's and zoning administrator's opinion, such addition does not substantially affect the proposed development of adjacent properties.
(Code 2015, § 10.90(1))

Sec. 10-1808. Purpose.

(a) The intent of these regulations is to promote the safe and efficient use of land, to contribute to an orderly and harmonious appearance in the city and to ensure compliance with this Code. The site plan review process is intended to help ensure that newly developed properties and redeveloped properties are compatible with adjacent development and that traffic, public safety, overcrowding, and environmental problems are minimized to the greatest extent possible.

(b) Site plan review shall include, but shall not be limited to, the following aspects of development:

(1) A project's compatibility with its environment and with other existing land uses and buildings in the surrounding area.

(2) The quantity, quality, utility, size, and type of a project's required open space and proposed landscaping improvements.

(3) The ability of a project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians.

(4) The quantity, quality, utility, size, and type of a project's required community facilities.

(5) The location and adequacy of a project's provision for drainage and utilities.

(6) Security, fire protection, and life/safety issues.
(Code 2015, § 10.90(2))

Sec. 10-1809. Scope of application.

(a) *Principal uses.* Site plan review approval shall be required as a condition to receiving a building permit for all permitted uses and conditional uses. Site plan review and approval shall not be required for one- and two-family dwellings, unless the establishment of the dwelling is subject to a conditional use, variance, environmental review, or a planned unit development.

(b) *Accessory uses.* Site plan review shall be required for accessory uses and structures, but such uses may be reviewed in conjunction with the review of principal structures which such accessory structures are shown on the site plan.

(c) *Additional parking.* Where a change of use or an increase in density of an existing structure requires additional parking, a site plan and landscape plan shall be submitted for review to ensure that the change of use can be accomplished within the purpose and intent of this article, except when such requirement is waived by the zoning administrator.
(Code 2015, § 10.90(3))

Sec. 10-1810. Scope of modifications authorized.

The authority of the planning director and zoning administrator through the site plan review process to require modification of a proposed site development shall be limited to the following elements in order to achieve the following objectives:

(1) *Traffic and parking.*

a. Minimizing dangerous traffic movements.

b. Promoting the smooth and efficient flow of traffic in accordance with standards in the Institute of Traffic Engineers' Transportation and Traffic Engineering Handbook, and other local sources of authority as adopted by resolution.

c. Optimizing the efficient use of property access and parking facilities through provision and requirement for adequate interior circulation, off-street parking stalls, turning lanes on the public right-of-way necessary to serve the development, and mass transit access.

(2) *Site layout.*

a. Promoting compatibility with adjacent and nearby properties.

b. Preserving and protecting valuable natural features and amenities to the greatest extent practical.

c. Promoting the efficient provision of public services.

(3) *Environmental protection.*

a. Preserving existing healthy and long-lived trees whenever possible.

b. Designing drainage facilities to promote the use and conservation of natural water-courses and patterns of drainage.

c. Minimizing alterations to existing topography in environmentally sensitive areas, as defined in this article and this Code.

(4) *Landscaping.*

a. Promoting the use of plant material compatible with the climate of the region and micro-climate conditions on the site.

b. Ensuring that plant material can be maintained for long-term health and continued growth.

c. Ensuring that the arrangement of required landscaping produces the desired visual effect.

(5) *Signage.*

a. Ensuring that the location, size, and orientation of signage does not impair the visibility of or distract motorists.

b. Ensuring that the location, size, and orientation of signage minimize obstructions and hazards to pedestrians.

(6) *Public safety.*

a. Ensuring that adequate and unrestricted access is provided for fire and emergency vehicles.

b. Ensuring that adequate fire hydrants are provided on the premises and that access to the fire hydrants is not restricted.

c. Ensuring that adequate safety and security lighting is provided.

d. Ensuring that life safety issues have been adequately addressed.

(7) *General conformance.* The site plan review process shall also ensure that the proposed site development shall conform to all applicable requirements of this article and other applicable ordinances and regulations of the city.

(Code 2015, § 10.90(4))

Sec. 10-1811. Site plan review committee.

The planning director shall be assisted in conducting site plan reviews by the site plan review committee which shall consist of a designated representative from each of the city departments or divisions as appointed by the city manager. In addition to conducting site plan reviews, the committee will review any other proposals as deemed necessary by the city manager. The zoning administrator shall serve as the secretary of the site plan review committee and shall coordinate its review of proposals.

(Code 2015, § 10.90(5); Ord. of 10-10-2005)

Sec. 10-1812. Site plan content.

Ten copies of a site plan shall be drawn at a scale of 1:20, 1:30, 1:40, 1:50, 1:60 or 1:100. An 11-inch by 17-inch reduction shall also be submitted. The site plan shall contain the following information, unless determined not applicable by the zoning administrator:

(1) *General information.*

a. The applicant's name, address, telephone number, and interest in the property.

b. The owner's name, address, and telephone number if different than the applicant, and the owner's signed consent to the filing of the application.

c. The street address and legal description of the property.

d. The zoning classification, zoning district boundaries, and present use of the property.

e. The proposed title of the project, and the names, addresses, and telephone numbers of the architect, landscape architect, planner or engineer on the project.

(2) *Preliminary development site plan.*

a. The location, dimensions, and total area of the site.

b. The location, dimensions, floor area, type of construction, and use of each proposed building or structure.

c. Floor plan showing specific uses within the building.

d. The number, the size and type of dwelling units in each building, and the overall dwelling unit density.

e. The proposed treatment of open spaces and the exterior surfaces of all structures, with sketches of proposed landscaping and structures, including typical elevations.

f. Architectural graphics, including typical floor plans and elevations, profiles, and cross sections.

g. The number, location, and dimensions of parking spaces and loading docks, with means of ingress and egress.

h. The proposed traffic circulation pattern within the area of the development, including the location and description of public improvements to be installed, including any streets and access easements.

i. The location of all fire hydrants on the property and the location of all fire hydrants within 150 feet of the property.

j. The location and dimensions of all accesses for fire and emergency vehicles.

k. Statement of whether or not the building will be sprinkled and fire flow availability for the sprinkler system and fire hydrants.

l. The location and intensity of safety and security lighting.

m. The location and purpose of any existing or proposed dedication or easement.

n. The general drainage plan for the development tract.

o. The location and dimensions of adjacent properties, abutting public rights-of-way and easements, and utilities serving the site.

p. Significant topographical or physical features of the site, including existing trees.

q. Wetland delineations for all wetlands present on the site.

r. The location and proposed treatment of any historical structure or other historical design element or feature.

(3) *Plat of survey.* A plat of survey of the piece or parcel of land, lot, block, or parts or portions thereof, drawn to scale, showing the actual dimensions of the piece or parcel of land according to a registered or recorded plat of such land.

(4) *A preliminary plat of subdivision, if required.* A preliminary plat of subdivision depicting the development parcel is required if the development parcel is not currently a lot of record that is subdivided in accordance with article XII of this chapter. A preliminary plat shall also be required for any development which will involve a resubdivision of an existing lot or parcel.

(5) *Additional information.* The site plan shall also contain the following information and be accompanied by the following submissions, as well as such additional information, drawings, plans or documentation as may be requested by the planning director or zoning administrator, if determined necessary or appropriate for a full and proper consideration and disposition of the application:

a. A certificate of disclosure of ownership interest.

b. When a proposed planned development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned or maintained by an entity other than a government authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.

c. Copies of any restrictive covenants that are to be recorded with respect to property in a proposed planned development or subdivision.

d. When the development is to be constructed in stages, a schedule for the development of such stages shall be submitted stating the approximate beginning and completion time for each stage. When the development provides for common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire development as the stages completed or under development bear to the entire development.

e. If requested by the director of public safety, a personal safety risk assessment for employees, visitors, and customers of the development.

f. A traffic study showing the impact of the development on public streets which serve the development. The study shall be undertaken by a registered traffic engineer.

(Code 2015, § 10.90(6))

Sec. 10-1813. Effect of approval of site plan.

The approval of a site plan by the site plan review committee shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits of approvals that may be required by the regulations of the city, including, but not limited to, a building permit, certificate of occupancy, subdivision approval, and conditional use approval. The approval of a site plan by the site plan review committee shall be valid for one year; provided further that the approval is valid only in terms of the safety, fire, building, and other city codes, in effect at the time of review.

(Code 2015, § 10.90(7))

Sec. 10-1814. Appeals.

Appeals shall follow the procedure outlined in article XI, division 10, of this chapter.

(Code 2015, § 10.90(8))

Sec. 10-1815. Fees.

An applicant submitting a site plan shall pay a nonrefundable fee in connection with the submittal in accordance with a fee schedule as established, from time to time, by the city council.

(Code 2015, § 10.90(9))

Secs. 10-1816—10-1833. Reserved.

ARTICLE XI. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Secs. 10-1834—10-1854. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 10-1855. Summary of authority.

The city offices and bodies listed herein, without limitation upon such authority as each may possess by law, have responsibility for implementing and administrating this article in the manner so described.
(Code 2015, § 10.91(1))

Sec. 10-1856. Authority.

The following city offices and bodies have responsibility for implementing and administering this article:

(1) Zoning administrator.

(2) Board of adjustments and appeals.

(3) Planning agency.

(4) City council.
(Code 2015, § 10.91(2))

Sec. 10-1857. Zoning administrator.

The position of zoning administrator shall have the following responsibilities:

(1) Administer this article and maintain permanent and current records of all associated maps, amendments, conditional uses, variances, and appeals.

(2) Maintain a record of all conditional use and variance applications, all nonconforming uses, and all notices of violation, discontinuance, or removal in order to ensure compliance with the provisions of this article and, on request, provide such information for public inspection.

(3) Forward any application for appeal of any administrative order or final decision made in the administration of this article, to the board of adjustments and appeals.

(4) Receive and process any application for an amendment, conditional use, and planned development, and forward it to the planning agency for its recommendation to the city council.

(5) Receive and process any application for a variance and forward it to the board of adjustments and appeals.

(6) Make a determination of compliance with this article on all applications for a building permit and a certificate of occupancy.

(7) Authorize minor adjustments to approved development site plans.

(8) Render interpretations of the provisions of this article.

(9) Enforce this article (the zoning code).

(Code 2015, § 10.91(3))

Sec. 10-1858. Board of adjustments and appeals.

The board of adjustments and appeals shall have the following responsibilities:

(1) Hear and decide applications for appeal of any administrative order or final decision made in the administration of this article.

(2) Approve, approve with conditions, or deny variance requests.

(3) Maintain a record of its proceedings, including the minutes of the meetings, its findings, and the action taken on each matter heard by it. The record shall be maintained in the city clerk's office.

(4) The board of adjustments and appeals shall have any such other powers given to it by state law.

(Code 2015, § 10.91(4))

Sec. 10-1859. Planning agency.

The planning agency shall have the following responsibilities:

(1) Hear and make recommendations to the city council regarding all applications for a conditional use permit and amendments to conditional use permits.

(2) Hear and make recommendations to the city council regarding all applications for a planned unit development.

(3) Hear and make recommendations to the city council regarding all applications for an amendment to this article.

(4) Review, hold public hearings, and prepare recommendations on any proposed change to the city's comprehensive planning policies and plans, including this article.

(5) Review this article from time to time and make recommendations to the city council for such changes to this article as the planning agency may deem appropriate.

(6) Hear and make recommendations on any other matter referred to it by the city council.

(Code 2015, § 10.91(5))

Sec. 10-1860. City council.

The city council shall have the following responsibilities:

(1) Approve, approve with conditions, or deny any application for a planned unit development.

(2) Approve, approve with conditions, or deny any application for a conditional use permit.

(3) Approve or deny any application for an amendment to this article.

(4) Take such other actions not delegated to other bodies that may be desirable and necessary to implement the provisions of this article.

(Code 2015, § 10.91(6))

Secs. 10-1861—10-1878. Reserved.

DIVISION 3. CONDITIONAL USE PERMITS

Sec. 10-1879. Authority.

The city council, in accordance with the procedures and standards set out in this section, may grant conditional use permits authorizing the development of uses listed as conditional uses in the regulations applicable to the district in which the specific property is located. The city council also reserves the right to review, modify, or terminate the approval of any conditional use permit.
(Code 2015, § 10.92(1))

Sec. 10-1880. Purpose.

The principal objective of this article is to provide for an orderly arrangement of compatible building and land uses, and for the proper locations of all types of uses required by the city. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various districts established by this article. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which may be allowed because of their unusual characteristics or the service they provide the public. These conditional uses require particular considerations as to their proper location in relation to adjacent established or intended use and the planned development of the community; therefore, each application will be reviewed on a case-by-case basis and will be subject to a public hearing process.
(Code 2015, § 10.92(2))

Sec. 10-1881. Persons entitled to seek permits.

An application for a conditional use permit may be made by any governmental office, department, board or commission, or by any person having a contractual interest in the subject property.
(Code 2015, § 10.92(3))

Sec. 10-1882. Procedure.

The following procedures shall govern application for conditional use permits:

(1) *Application.* An application for a conditional use permit shall be filed with the zoning administrator on the form provided and shall contain at least the following information:

a. The applicant's name, address, and proof of interest in the property.

b. The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.

c. The names and addresses of all professional consultants advising the applicant with respect to the proposed development.

d. The street address and legal description of the property.

e. The zoning classification and present use of the subject property.

f. A general description of the proposed conditional use.

g. A statement indicating whether the applicant will require a variance in connection with the proposed conditional use.

h. A site plan conforming to the requirements of article X, division 10, of this chapter.

i. Such other information or documentation as the zoning administrator may deem to be necessary or appropriate for a full and proper consideration and disposition of the application.

(2) *Action of zoning administrator.* Upon receipt of a properly completed application for a conditional use and accompanying site plan, the zoning administrator shall forthwith transmit to the planning agency, the application together with all other documents made part thereof.

(3) *Public hearing.* Upon receipt of a properly completed application for a conditional use, the planning agency shall set a date for a public hearing.

(4) *Notice.* Notice of the public hearing shall be given by the planning agency by one publication in one or more newspapers of general circulation. Notice shall be published a minimum of ten days prior to the hearing date and a maximum of 30 days to the hearing. Notice shall also be given by first class mail to all owners of property within 300 feet from the proposed location of the conditional use. The notice shall describe the particular conditional use and shall contain a brief description thereof. County assessment records and street addresses shall be deemed sufficient for the location or certification of ownership for notification purposes.

(5) *Action of the planning agency.* Upon the conclusion of the public hearing, the planning agency shall transmit its recommendation to the city council. The planning agency shall either recommend the granting of the conditional use permit, granting the conditional use permit subject to conditions, or denying the conditional use. The failure of the planning agency to act within 60 days of receipt of the application shall be deemed a recommendation for the approval of the conditional use permit, unless the planning commission tabled the request. When a request is tabled by the planning commission, the request shall not be forwarded to the council until a recommendation to approve, approve with conditions, or deny has been adopted.

(6) *Action of the city council.* After receipt of the planning agency's recommendation or its failure to act within 60 days, the city council shall either deny the conditional use permit, or grant the conditional use permit with or without conditions.

(Code 2015, § 10.92(4))

Sec. 10-1883. Standards.

The planning agency shall only recommend the granting of the conditional use permit, granting the conditional use permit subject to conditions, or denying the conditional use based on written findings of fact with regard to each of the standards set forth below and, where applicable, any special standards for specific uses set forth in the provisions of a specific zoning district.

(1) It is one of the conditional uses listed in the particular district.

(2) It is in keeping with the comprehensive planning policies of the city and this article as amended from time to time.

(3) It does not interfere with or diminish the use of property in the immediate vicinity.

(4) It can be adequately served by public facilities and services.

(5) It does not cause undue traffic congestion.

(6) It preserves significant historical and architectural resources.

(7) It preserves significant natural and environmental features.

(8) It will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of various special uses of all types on the immediate neighborhood, and the effect of the proposed type of conditional use upon the city as a whole.

(9) It complies with all other applicable regulations of the district in which it is located and other applicable ordinances, except to the extent such regulations have been modified through the planned development process or the granting of a variance.

(10) It will not jeopardize the public's health, safety, or general welfare.

(Code 2015, § 10.92(5))

Sec. 10-1884. Sequence of approval of applications for both a conditional use and a variance.

Whenever the applicant indicates that a variance will be necessary in connection with the proposed conditional use (other than a planned development), the applicant shall at the time of filing for a conditional use, file an application for a variance with the board of adjustments and appeals. The board of adjustments and appeals shall not take any action on the application for a variance until the planning agency shall first act to recommend the granting of the conditional use permit, granting the conditional use permit subject to conditions, or denying the conditional use.

(Code 2015, § 10.92(6))

Sec. 10-1885. Conditions.

(a) The city council, upon recommendation of the planning agency, may impose such conditions and limitations concerning the use, construction, character, location, landscaping, screening, parking and other matters relating to the purpose and objectives of this article upon the premises benefited by a conditional use. In addition, the city council may require a performance guarantee to be submitted to the city in order to ensure compliance with the terms of approval.

(b) The conditions and limitations of approval may be more restrictive than standards outlined in this article, but shall not be less restrictive. Such conditions and limitations may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the proposed property or on public facilities. Such conditions shall be expressly set forth in the resolution granting the conditional use permit. Violation of any such condition or limitation shall be a violation of this article and shall constitute grounds for revocation of the conditional use permit pursuant to division 7 of this article.
(Code 2015, § 10.92(7))

Sec. 10-1886. No presumption of approval.

The listing of a conditional use within each zoning district does not constitute an assurance or presumption that such conditional use will be approved. Rather, each proposed conditional use shall be evaluated on an individual basis in order to determine whether approval of the special use is appropriate at the particular location and in the particular manner proposed.
(Code 2015, § 10.92(8))

Sec. 10-1887. Effect of approval.

The approval of a proposed conditional use by the city council shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required by the regulation of the city, including, but not limited to, a building permit and a certificate of occupancy.
(Code 2015, § 10.92(9))

Sec. 10-1888. Limitations.

Subject to an extension of time granted by the city council, no conditional use permit shall be valid for a period longer than 12 months, unless a building permit is issued, or unless a certificate of occupancy is issued and the conditional use commenced within that period of time. Except when otherwise provided in the resolution approving a conditional use, a conditional use shall be deemed to relate to, and be for the benefit of, the use and lot in question, rather than the owner or operator of such lot.
(Code 2015, § 10.92(10))

Sec. 10-1889. Fee.

An applicant for a conditional use permit shall pay a nonrefundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the city council.
(Code 2015, § 10.92(11))

Secs. 10-1890—10-1906. Reserved.

DIVISION 4. PLANNED UNIT DEVELOPMENTS

Sec. 10-1907. Authority.

The city council may, in accordance with the procedures and standards set forth in this section, and other standards and regulations applicable to the district in which the subject property is located, approve by ordinance, planned unit developments for uses as listed within each zoning district.
(Code 2015, § 10.93(1))

Sec. 10-1908. Purpose.

A planned unit development is intended to encourage the efficient use of land and resources, to promote greater efficiency in public and utility services, and to encourage innovation in the planning and building of all types of development. A planned unit development may be approved by the city council following a review and recommendation by the planning agency.
(Code 2015, § 10.93(2))

Sec. 10-1909. Public benefit.

The public benefits to the surrounding neighborhood and the city as a whole that are intended to be derived from the approval of a planned unit development include, but are not limited to:

(1) Preservation and enhancement of desirable site characteristics and open space.

(2) A pattern of development which preserves natural vegetation, topographic and geologic features.

(3) Preservation and enhancement of historic and natural resources that significantly contribute to the character of the city.

(4) Use of design, landscape, or architectural features to create a pleasing environment or other special development features.

(5) Provision of a variety or housing types in accordance with the city's housing goals.

(6) Elimination of blighted structures or incompatible uses through redevelopment or rehabilitation.

(7) Business and commercial development to enhance the local economy and strengthen the tax base.

(8) The efficient use of land resulting in more economic networks of utilities, streets, schools, public grounds, buildings, and other facilities.

(Code 2015, § 10.93(3))

Sec. 10-1910. General provisions.

The following general provisions shall govern the review, approval, and establishment of planned unit developments:

(1) *Control of the planned development.* A planned unit development may be established for any parcel or tract of land under single ownership or control. The property included in the planned unit development shall be planned and developed or redeveloped as a single unit and in a manner consistent with the intent and purpose for which a planned unit development may be permitted.

(2) *Uses allowed.* All permitted and conditional uses listed in a specific district are allowed as planned unit developments. Where residential units are provided as part of a planned unit development, regardless of the specific district, they may be of one-family attached, one-family detached, townhouse, or clustered or multiple-family type construction. Mixed use planned unit developments are permitted and encouraged provided they meet the intent and purpose for which a planned unit development is permitted. Uses not listed as permitted or conditional in a specific district shall not be allowed in a planned unit development unless it is found that the use is complementary to the functionality of the development and the other uses found therein.

(3) *Authority to modify regulations.* The city council shall have the authority in approving any planned unit development to change, alter, modify, or waive any provision of this article or the subdivision regulations as they apply to the proposed planned unit development. No such change, alteration, modification or waiver shall be approved unless the city council shall find that the proposed planned unit development:

a. Will achieve the purpose for which a planned unit development may be approved pursuant to this section.

b. Will not violate the general purpose, goals, and objectives of this article and of any plans adopted by the planning agency or the city council.

(4) *Limitations.* No change, alteration, modification or waiver authorized by this section shall authorize a change in uses allowed in any district or a modification with respect to any standard established by this section, or a modification with respect to any standard in a zoning district made specifically applicable to a planned unit development, unless the regulation expressly authorizes such a change, alteration, modification or waiver.

(Code 2015, § 10.93(4))

Sec. 10-1911. Site design.

(a) The number of principal use structures which may be constructed within the planned unit development shall be determined by dividing the net acreage of the project acreage by the required lot area per unit that is required in the district in which the planned unit development is located. The

net acreage shall be defined as the project area less the land area dedicated for public streets or other public purposes. The project area includes all the land within the planned unit development that is allocated for residential, institutional, commercial, or industrial uses, and for common open space as required.

(b) The development plan shall contain such proposed covenants, easements, and other provisions relating to the bulk, location, and density of permitted structures, accessory structures, and public facilities as may be necessary for the welfare of the planned unit development and the city.

(c) The common open space, and other common properties, individual properties, and all other elements of the planned unit development shall be so planned that they achieve a unified scheme of integrated planning and a harmonious selection and efficient distribution of uses.

(d) Common open space within a planned unit development must be used for amenity or recreational purposes. Motor vehicle parking areas and traffic corridors shall not be considered an approved use of common open space. The uses authorized for the common open space must be approved to the scale and character of the planned unit development, and consider the planned unit development's size, density, topography, and number and type of structures to be provided.

(e) Common open space must be suitably improved for its intended use. Common open space containing natural features worthy of preservation may be left unimproved. The development plan must coordinate the improvement of the common open space and the construction of the permitted structures within the planned unit development.

(f) Adequate access shall be provided for fire and emergency vehicles.
(Code 2015, § 10.93(5))

Sec. 10-1912. Minimum area.

A planned unit development proposed for any parcel or tract of land under single ownership or control shall have a minimum net site area for each zoning district as set forth below.

Minimum Area	
Residential Districts	
R-1 One-Family Dwelling District	Two acres
R-2 One- and Two-Family Dwelling District	Two acres
R-3 Limited Multiple Dwelling District	Two acres
R-4 Multiple-Family Dwelling District	Two acres
OR Office Residential	Two acres
Downtown Districts	
CBD-C Central Business District-Core	One acre
CBD-F Central Business District-Fringe	One acre
Business Districts	
B-1 Community Business District	Four acres
B-2 General Business District	Four acres

Minimum Area	
B-3 Highway Commercial District	Four acres
Industrial Districts	
PI Planned Industrial District	Five acres
M-1 Light Industrial District	Five acres
M-2 Heavy Industrial District	Five acres

(Code 2015, § 10.93(6))

Sec. 10-1913. Application procedure.

An application for a planned unit development shall be processed in accordance with the following procedures:

(1) *Preapplication conference.* Prior to submitting a formal application for a planned unit development, an applicant shall participate in a preapplication conference with the planning director and zoning administrator. Representatives of other city departments and decision-making bodies may also be present where appropriate. The purpose of the preapplication conference is to enable the applicant to present the concept of the proposed planned unit development and to discuss the procedures and standards for planned unit development approval. The conference is intended to facilitate the filing and consideration of a formal planned unit development application. No representations made by any representatives of the city's departments or decision-making bodies during the preapplication conference shall be binding upon the city with respect to a formal application subsequently submitted.

(2) *Information needed for the preapplication conference.* The applicant shall provide the following information at the time of the scheduling of the preapplication conference:

a. Concept site plan.

b. Narrative summary of the proposal.

c. Description of the land uses and neighboring characteristics.

(3) *Formal application-development plan.* Formal applications for a planned unit development shall be filed with the zoning administrator on a form provided and accompanied by such number of copies as so indicated. Upon receipt of a properly completed formal application for a planned unit development, the zoning administrator shall forthwith transmit to the planning agency the application together with all papers and plans attached thereto. All formal applications for a planned unit development shall include at least the following information:

a. *General information.*

1. The applicant's name, address, telephone number, and interest in the property.

2. The owner's name, address, and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application.

3. The street address and legal description of the property.

4. The zoning classification, zoning district boundaries, and present use of the property.
5. The proposed title of the project and the names, addresses, and telephone numbers of the architect, landscape architect, planner or engineer on the project.

b. *Preliminary development site plan.* A development site plan shall be drawn at a scale of 20 feet to one inch and shall contain at least the following, unless determined not applicable by the zoning administrator:

1. The location, dimensions, and total area of the site.
2. The location, dimensions, floor area, type of construction, and use of each proposed building or structure and setbacks from property lines.
3. The number, the size, and type of dwelling units in each building, and the overall dwelling unit density.
4. The proposed treatment of open spaces and the exterior surfaces of all structures, with sketches of proposed landscaping and structures, including typical elevations.
5. Architectural graphics, including typical floor plans and elevations, profiles, and cross sections.
6. The number, location, and dimensions of parking spaces and loading docks, with means of ingress and egress.
7. The proposed traffic circulation pattern within the area of the development, including the location and description of public improvements to be installed, including any streets and access easements.
8. A vehicular traffic analysis.
9. The location of all fire hydrants on the property and the location of all fire hydrants within 150 feet of the property.
10. The location and dimensions of all accesses for fire and emergency vehicles.
11. Statement of whether or not the building will be sprinkled and fire flow availability for the sprinkler system and fire hydrants.
12. The location and intensity of safety and security lighting.
13. The location and purpose of any existing or proposed dedication or easement.
14. The general drainage plan for the development tract.
15. The location and dimensions of adjacent properties, abutting public rights-of-way and easements, and utilities serving the site.
16. Significant topographical or physical features of the site, including existing trees.
17. Wetland delineation showing all wetlands present on the site.
18. The location and proposed treatment of any historical structure or other historical design element or feature.

c. *Preliminary plat of survey.* A preliminary plat of the property shall be submitted in conformance with article XII of this chapter. The layout of the plat shall conform to the development plan.

d. *Additional information.* The application shall also contain the following information and be accompanied by the following submissions, as well as such additional information, drawings, plans or documentation as may be requested by the zoning administrator or the planning agency, if determined necessary or appropriate for a full and proper consideration and disposition of the application:

1. A certificate of disclosure of ownership interest.

2. When the proposed planned unit development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned or maintained by an entity other than a government authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.

3. Copies of any restrictive covenants that are to be recorded with respect to property in the proposed planned unit development.

4. When the planned unit development is to be constructed in stages, a schedule for the development of such stages shall be submitted stating the approximate beginning and completion time for each stage. When the development provides for common open space, the total area of common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire development as the stages completed or under development bear to the entire development.

5. A statement showing the relationship of the proposed planned unit development to any adopted general plan of the city.

6. A statement showing why the proposed planned unit development is compatible with other property in the neighborhood.

(4) *Review procedure.*

a. *Action of zoning administrator.* Upon review of the formal application, including the development site plan, the zoning administrator shall determine if the application is complete. If the application is determined not to be complete, the zoning administrator shall not transmit the application to the planning agency, but shall notify the applicant of any deficiencies or modifications necessary to perfect the application.

b. *Public hearing.* Upon receipt of a properly completed application for a planned unit development, the planning agency shall set a date for a public hearing.

c. *Notice.* Notice of the public hearing shall be given by the planning agency by one publication in one or more newspapers of general circulation. Notice shall be published a minimum of ten days prior to the hearing date and a maximum of 30 days prior to the

hearing. Notice shall also be given by first class mail to all owners of property within 300 feet from the proposed location of the conditional use. The notice shall describe the particular planned unit development and shall contain a brief description thereof.

d. *Action of the planning agency.* Upon the conclusion of the public hearing, the planning agency shall transmit its recommendation to the city council. The planning agency shall either recommend the granting of the planned unit development, granting the planned unit development subject to modifications, or denying the planned unit development.

e. *Action of the city council.* After receipt of the planning agency's recommendation, the city council shall either deny the planned unit development, or grant the planned unit development with or without modifications and conditions.

(Code 2015, § 10.93(7))

Sec. 10-1914. Standards.

(a) The planning agency shall not recommend approval of, nor shall the city council approve, a planned unit development unless each shall first make written findings of fact that the planned unit development satisfies the intent of this article or does not jeopardize the public health, safety, or welfare.

(b) The development of the planned unit development shall conform to the approved development plan; including all proposed covenants, easements, conditions of approval, and other provisions relating to the bulk, location, and density of permitted structures, accessory structures, parking, and other public facilities.

(c) All land shown on the approved development plan as common open space must be conveyed to trustees provided in the indenture establishing the association or similar organization for the maintenance of the planned unit development.

(d) No common open space may be put to any use not specified in the approved development plan.

(Code 2015, § 10.93(8))

Sec. 10-1915. Time limit on approved planned unit development.

No planned unit development approval shall be valid for a period longer than one year unless a building permit is issued. However, upon written request of the applicant, the one-year period may be extended by the planning agency for such time as it shall be determined and for good cause shown, without further hearing.

(Code 2015, § 10.93(9))

Sec. 10-1916. Effect of approval of a planned unit development.

The approval of a proposed planned unit development by the city council shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall

merely authorize the preparation, filing, and processing of applications for such permits or approvals as may be required by the regulation of the city, including, but not limited to, a subdivider's agreement as required in article XII of this chapter, building permit, and a certificate of occupancy.
(Code 2015, § 10.93(10))

Sec. 10-1917. Regulations during and following completion of development.

Following approval of the planned unit development, the development site plan, including any modifications thereof, shall constitute the use, parking, loading, sign, bulk, space, and yard regulations applicable to the property, and no use, building or development, other than home occupations and temporary uses not allowed by the development site plan, shall be permitted within the area of the planned unit development.
(Code 2015, § 10.93(11))

Sec. 10-1918. Adjustments to the development site plan.

Adjustments to the development site plan shall be in accordance with the requirements set forth in this section.

(1) *New application required.* No alteration or amendment shall be made in the construction, development, or use without a new application under the provisions of this section. However, minor alterations may be made subject to written approval of the zoning administrator.

(2) *Minor adjustments.*

a. During build-out of the planned unit development, the zoning administrator may authorize minor adjustments to approved development site plans when such adjustments appear necessary in light of technical or engineering considerations. Such minor adjustments shall be limited to the following elements:

1. Adjusting the distance as shown on the approved development site plan between any one structure or group of structures, and any other structure or group of structures, or any vehicle circulation element or any boundary of the site.

2. Adjusting the location of any open space.

3. Adjusting any final grade.

4. Altering the types of landscaping elements and their arrangement within the required landscaping buffer area.

b. Such minor adjustments shall be consistent with the intent and purpose of the ordinance and development plans approved pursuant to this section and shall be the minimum necessary to overcome the particular difficulty and shall not be approved if such adjustments would result in a violation of any standard or requirement of this article.

(3) *Major adjustments.* Any adjustments to the development site plan not authorized as a minor adjustment shall be considered a major adjustment and shall require a new application under the provisions of this section.

(Code 2015, § 10.93(12))

Sec. 10-1919. Fee.

All applications for a planned unit development shall be accompanied by a nonrefundable filing fee in accordance with section 10-1889 and as provided in the city fee schedule.

(Code 2015, § 10.93(13))

Secs. 10-1920—10-1936. Reserved.

DIVISION 5. VARIANCES

Sec. 10-1937. Authority.

In accordance with the procedures and standards set forth in this section, the board of adjustments and appeals shall have the authority to grant variances from the provisions of this article in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property.

(Code 2015, § 10.94(1))

Sec. 10-1938. Purpose.

The variance procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this article that create practical difficulties or particular hardships.

(Code 2015, § 10.94(2))

Sec. 10-1939. Parties entitled to seek variances.

Applications for variances may be filed by the owner of, or any person having contractual interest in, the property.

(Code 2015, § 10.94(3))

Sec. 10-1940. Procedure.

An application for a variance shall be processed in accordance with the following procedures:

(1) *Application.* An application for a variance shall be filed with the zoning administrator and shall include, at least, the following information:

a. The applicant's name, address, and proof of interest in the property.

b. The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.

c. The names and addresses of all professional consultants advising the applicant with respect to the proposed development.

d. The street address and legal description of the property.

e. The present use of the subject property.

f. A site plan showing existing lot lines and dimensions as well as lot area, all easements, all public streets and private rights-of-way bordering and adjacent to the site, the use and location of all adjacent property.

g. The specific feature or features of the proposed use, construction, or development that require a variance.

h. The specific provisions of this article from which a variance is sought and the precise variance therefrom being sought.

i. Statement of the characteristics of the property that prevent compliance with the provisions of this article.

(2) *Action of zoning administrator.* Upon receipt of a properly completed application for an appeal, the zoning administrator shall forthwith transmit to the board of adjustments and appeals the application together with all papers and plans attached thereto.

(3) *Public hearing.* Upon receipt of a properly completed application for a variance, the board of adjustments and appeals shall set a date for a public hearing.

(4) *Notice.* Notice of the public hearing shall be given by the zoning administrator by one publication in one or more newspapers of general circulation. Notice shall be published a minimum of ten days prior to the hearing date and a maximum of 30 days to the hearing. Notice shall also be given by first class mail to all owners of property within 200 feet from the proposed location of the variance. The notice shall describe the particular variance and shall contain a brief description thereof. County assessment records and street addresses shall be deemed sufficient for the location or certification of ownership for notification purposes.

(5) *Board of adjustments and appeals action.* The board of adjustments and appeals shall render its decision in accordance with the board's adopted rules of procedures. The board of appeals may grant the variance, grant the variance subject to conditions, or deny the variance.

(Code 2015, § 10.94(4))

Sec. 10-1941. Standards.

In considering an application for a variance, the board of adjustments and appeals may approve such variance only upon the finding that the application complies with the standards set forth below.

(1) *General standard.* No variance shall be granted unless the applicant shall establish that conforming to the strict letter of the provisions of this article would create a unique and particular hardship.

(2) *Unique and particular hardship.* Unique and particular hardship is defined as the property is exceptional as compared to other property subject to the same provisions by reason of a

unique physical condition, including the presence of an existing use or structure, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot. The hardship shall amount to more than a mere inconvenience to the owner and the hardship shall relate to the physical situation of the lot rather than the personal situation of the current owner of the lot.

(3) *Not self-created.* The unique physical condition and hardship shall not be the result of any action or inaction of the property owner or its predecessors in title. The unique physical condition shall have existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of the ordinance from which this chapter is derived.

(4) *Denied substantial rights.* The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other property subject to the same provisions.

(5) *Not merely special privilege.* The alleged hardship shall not include the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision. The alleged hardship shall not include the inability of the property owner to realize a greater profit than if the variance were not granted.

(6) *No other remedy.* There are no means other than the requested variance by which the alleged hardship can be avoided or remedied to a degree sufficient to permit a reasonable use of the lot.

(7) *Variance less than requested.* A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

(8) *Essential character of the area.* The variance would not result in a development on the lot that:

a. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity.

b. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity.

c. Would substantially increase congestion in the public streets due to traffic or parking.

d. Would unduly increase the danger of flood or fire.

e. Would unduly tax public utilities and facilities in the area.

f. Would endanger the public health or safety.

g. Would not be in harmony with the general and specific purposes of this article and the comprehensive planning policies and objectives of the city.

(Code 2015, § 10.94(5))

Sec. 10-1942. Conditions on variances.

The board of adjustments and appeals may impose specific conditions and limitations upon the granting of a variance as are necessary to achieve the purpose and objectives of this article. Such conditions and limitations may include, but are not limited to, those concerning the use, construction, character, location, landscaping, screening, parking, and other matters relating to the purpose and objectives of this article and shall be expressly set forth in the resolution granting the variance. Violation of any such condition or limitation shall be a violation of this article and shall constitute grounds for revocation of the variance pursuant to article X, division 10, of this chapter.
(Code 2015, § 10.94(6))

Sec. 10-1943. Effect of grant of variance.

The approval of a proposed variance by the board of adjustments and appeals shall not authorize the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required by the regulation of the city, including, but not limited to, a building permit and a certificate of occupancy.
(Code 2015, § 10.94(7))

Sec. 10-1944. Limitations on variance.

Subject to an extension of time granted by the board of adjustments and appeals, no variance shall be valid for a period longer than 12 months unless a building permit is issued, or unless a certificate of occupancy is issued and a use commenced within that period of time. Except when otherwise provided in the resolution approving a variance, a variance shall be deemed to relate to, and be for the benefit of, the lot in question, rather than the owner of such lot.
(Code 2015, § 10.94(8); Ord. of 2-9-2004)

Sec. 10-1945. Prohibited variances.

Notwithstanding any other provision in this section, no variance shall be granted to establish a use not permitted in the zoning district where the property subject to the application is located.
(Code 2015, § 10.94(9))

Sec. 10-1946. Fee.

An applicant for a variance shall pay a nonrefundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the city council.
(Code 2015, § 10.94(10))

Secs. 10-1947—10-1975. Reserved.

DIVISION 6. CERTIFICATE OF OCCUPANCY AND BUILDING PERMITS

Sec. 10-1976. Authority.

The zoning administrator shall have the authority to review applications for certificates of occupancy and building permits in order to determine compliance with this article.
(Code 2015, § 10.95(1))

Sec. 10-1977. Purpose.

For the purposes of this article, the certificate of occupancy, in part, provides a procedure for the inspection of completed premises to ensure their compliance with this article and approved plans prior to commencement of the use or occupancy of such premises. The certificate also serves as evidence of compliance with other provisions of other codes or ordinances of the city. For the purposes of this article, the building permit authorizes the development on a lot in conformance with applicable sections of this Code and special approval conditions.
(Code 2015, § 10.95(2))

Sec. 10-1978. Certificate required.

Unless a certificate of occupancy shall have first been obtained certifying compliance with the provisions of this article, no structure, or addition thereto, constructed, remodeled, altered, or moved shall be used for any purpose, and no vacant land shall be used or occupied for any purpose. Except for changes involving substitution of occupants in existing dwelling units, no use or occupancy of any land or structure shall be changed to any other use or occupancy without first obtaining a certificate of occupancy.
(Code 2015, § 10.95(3))

Sec. 10-1979. Procedure.

The following procedures shall govern application for certificates of occupancy and building permits:

(1) *Application.* Applications for a certificate of occupancy and building permits shall be made to the building official. For the purpose of this article, applications for a building permit shall include a site plan which conforms with the requirements of section 10-1812.

(2) *Action on application.* Within ten days after the receipt of a completed application, the building official shall forward the application to the zoning administrator who shall review the application and inspect the subject structure or premises and shall take the following actions based on such inspection:

   a. If all construction has been completed and the structure and premises are in compliance, or the building permit application is complete and the accompanying plans depict a development that conforms with all the applicable provisions of this article and special approval conditions, the zoning administrator shall approve the application for a certificate of occupancy or building permit.

b. If, however, all work is not in compliance with all applicable requirements of this article or the building permit application is incomplete and the accompanying plans depict a development that would not conform with all the applicable provisions of this article, the zoning administrator shall deny the application and shall inform the applicant in writing of the specific deficiencies on which such denial is based, citing the particular provisions of this article, the particular items in the applicant's plans, or the applicable special approval conditions with respect to which compliance is lacking.

(3) *Contents of certificate.* Every certificate of occupancy shall, at a minimum, state the specific use of the property for which it is issued, shall identify the specific plans, if any, pursuant to which it is issued, and shall set forth any conditions imposed in connection with any approval granted pursuant to this article.

(4) *Filing of certificates.* Every certificate of occupancy issued pursuant to this section shall be kept on file in the community development department and shall be considered a public record, and shall be open for public inspection upon request.

(5) *Additional inspection cost.* The zoning administrator may, where necessary, require the services of a qualified testing laboratory to determine anticipated compliance with performance standards prior to issuance of a building permit or certificate of occupancy. The cost of employing the testing laboratory shall be paid by the applicant.

(Code 2015, § 10.95(4))

Sec. 10-1980. Temporary certificate of occupancy.

Pending the issuance of a certificate of occupancy, the zoning administrator may approve a temporary certificate of occupancy for a period not exceeding six months, pending the completion of the development, including the erection or alteration of a structure. The temporary certificate shall state its temporary nature, and it shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the city relating to the use or occupancy of the premises or any other matter except under such restrictions and provisions as will adequately ensure the safety of the occupants and abutting properties. The zoning administrator or building official may require the property owner to submit a performance guarantee to the building official. The performance guarantee shall be held by the building official for the duration of the temporary certificate of occupancy. The amount of the performance guarantee shall be equal to an amount deemed necessary to cause the completion of the development, including the erection or alteration of a structure. The performance guarantee shall only be returned to the property owner upon the issuance of a certificate of occupancy. If the temporary certificate of occupancy expires and the development is not completed per the approved site plan, conditions of approval, and approved building plans, the city reserves the right to use the performance guarantee to cause the completion of the development, including the erection or alteration of a structure.

(Code 2015, § 10.95(5))

Sec. 10-1981. Certificate of occupancy for existing uses.

The zoning administrator may approve a certificate of occupancy certifying the lawful existence and use of any existing structure or use, provided it is issued in the same manner and subject to the

same requirements as described in this division. The certificate shall evidence only that which is contained in the certificate with respect to any structure or use as of the date of its issue and shall remain effective only for that purpose for so long as neither the use or structure nor the applicable provisions of this article are changed.
(Code 2015, § 10.95(6))

Sec. 10-1982. Certificate of occupancy for legal nonconforming uses.

The zoning administrator may approve a certificate of occupancy certifying the lawful existence and use of any nonconforming use, structure, lot, sign, or fence, provided it is issued in the same manner and subject to the same requirements as described in this section.
(Code 2015, § 10.95(7))

Sec. 10-1983. Void certificates of occupancy and building permit.

Any certificate of occupancy or building permit issued in violation of the provisions of this article, whether intentionally, negligently, or innocently, shall be void immediately upon issue and shall give rise to no rights whatsoever.
(Code 2015, § 10.95(8))

Secs. 10-1984—10-2004. Reserved.

DIVISION 7. ENFORCEMENT

Sec. 10-2005. Authority.

The zoning administrator is hereby authorized and directed to enforce all the provisions of this article and shall perform the following duties:

(1) *Inspections.* The zoning administrator shall have the authority to periodically inspect buildings, structures, and uses of land to determine compliance with the provisions of this article, or of any permit or approval granted pursuant to this article, or of any condition imposed pursuant to this article on any such permit or approval. In regard to performance standards, the zoning administrator may require the services of a testing laboratory to determine compliance. The cost of the laboratory services shall be paid for by the person responsible for the violation if one is so determined.

(2) *Procedure upon discovery of violation.* Upon finding the existence of any violation of this article, the zoning administrator may take any or all of the following procedures:

   a. *Stop and cease-and-desist orders.* Upon finding the existence of any violation of this article, the zoning administrator shall notify, in writing, the person responsible for such violation, indicating the violation and ordering the action necessary to correct it; specifically, the zoning administrator shall order the discontinuance of any illegal use of land or structures, the removal of illegal structures, additions, or alterations, and the discontinuance of illegal work being done.

b. *Legal action.* In the enforcement of this article, the zoning administrator shall exercise all the powers authorized by this Code and state law to ensure compliance with, or to prevent or abate any violation of the provisions of this article, and in particular shall, when necessary or appropriate, shall cause the city attorney to initiate any and all actions, legal or equitable, including appeals, that may be required for the enforcement of this article.

c. *Revocation of permits.* The violation of any provision of this article, or of any permit or approval granted pursuant to this article, or of any condition imposed pursuant to this article on any such permit or approval, shall be grounds for the revocation of any permit, variance, or approval granted pursuant to this article. If the zoning administrator determines any such violation exists, the zoning administrator shall forward a report to the city council regarding the violation. The city council shall hold a public hearing regarding the violation, after which the council shall either revoke the permit or approval, modify the original conditions of the permit or approval, or affirm the compliance with the permit or approval.

d. *Fines and penalties.* In the enforcement of this article, the zoning administrator shall, when necessary and appropriate, order the issuance and enforcement of citations to recover fines and penalties for the violation of this article as authorized by state law and this article.

(Code 2015, § 10.96)

Secs. 10-2006—10-2033. Reserved.

DIVISION 8. ADMINISTRATIVE INTERPRETATIONS

Sec. 10-2034. Authority.

The zoning administrator, subject to the procedures, standards, and limitations herein, may, in written request, render interpretations, including use interpretations, of the provisions of this article and of any rule or regulations issued pursuant to it.

(Code 2015, § 10.97(1))

Sec. 10-2035. Purpose.

The interpretation authority established by this division, is intended to recognize that the provisions of this article, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have it be applied. Many such situations can be readily addressed by interpretation of the specific provisions of this article in light of the general and specific purpose for which those provisions have been enacted. Because the interpretation authority established is administrative rather than legislative, it is not intended to add or change the essential content of this article, but is intended only to allow authoritative applications of that content to specific cases.

(Code 2015, § 10.97(2))

Sec. 10-2036. Parties entitled to seek interpretations.

Requests for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation. Requests shall not be accepted when based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.
(Code 2015, § 10.97(3))

Sec. 10-2037. Procedure.

The following procedure shall govern requests for administrative interpretations:

(1) *Requests.* Requests for interpretations of this article shall be filed with the zoning administrator, and shall contain at least the following information:

a. The property owner's name and address, and the owner's signed consent to the filing of the application.

b. The applicant's name and address, if different than the owner, and the applicant's interest in the subject property.

c. The specific provision or provisions of this article for which an interpretation is sought.

d. The facts of the specific situation given rise to the request for an interpretation.

e. The precise interpretation claimed by the applicant to be correct.

f. In cases of use interpretations, the use permitted in the particular zoning classification that is claimed to be included, or be most similar to, the proposed use sought.

g. In cases of a use interpretation, documents, statements, and other evidence demonstrating that the proposed use will comply with all use limitations established for the district in which it is proposed to be located.

(2) *Action on.* Within 30 days following the receipt of a properly filed request, the zoning administrator shall inform the applicant in writing of the interpretation, stating the reasons for the determination therein.

(3) *Records.* A permanent record of all requests for interpretations shall be kept on file in the office of the zoning administrator.

(4) *Appeals.* Appeals from interpretations rendered by the zoning administrator may be made to the board of adjustments and appeals.
(Code 2015, § 10.97(4))

Sec. 10-2038. Standards for use interpretations.

The following standards shall govern the zoning administrator, and the board of adjustments and appeals when on appeal, in issuing use interpretations:

(1) Any use defined in section 10-2 shall be interpreted as therein defined.

(2) No use interpretation shall permit any use in a particular district unless evidence shall be presented that demonstrates that it will comply with the general district regulations established for that particular district.

(3) No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in that district and is more similar to such other uses permitted or conditionally permitted in a more restrictive district.

(4) If the proposed use is most similar to a use permitted only as a conditional use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a conditional use permit for such use pursuant to article XI, division 3, of this chapter.

(5) No use interpretation shall permit the establishment of any use that would not be consistent with the statement of purpose of the district in question.

(Code 2015, § 10.97(5))

Sec. 10-2039. Effect of favorable use interpretations.

No use interpretation finding a particular use to be permitted or conditionally permitted in a particular district shall authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the codes or ordinances of the city, including, but not limited to, a building permit, a certificate of occupancy, subdivision approval, and site plan approval.

(Code 2015, § 10.97(6))

Sec. 10-2040. Limitations on favorable use interpretations.

Subject to a possible extension of time granted by the zoning administrator, no use interpretation finding a use to be permitted or specially permitted in a particular district shall be valid for a period longer than six months from date of issuance unless action has been taken by the applicant in the form of the use being established or a building permit and construction or a certificate of occupancy is obtained.

(Code 2015, § 10.97(7))

Secs. 10-2041—10-2058. Reserved.

DIVISION 9. AMENDMENTS

Sec. 10-2059. Authority.

The text if this article and the official zoning map may be amended from time to time by the passage of any ordinance duly adopted by the city council in accordance with the procedures set forth herein.

(Code 2015, § 10.98(1))

Sec. 10-2060. Purpose.

The purpose of this section is to provide standards and procedures for making amendments to the text of this article and the zoning map that are of general significance or application. The amendment process is not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.
(Code 2015, § 10.98(2))

Sec. 10-2061. Parties entitled to initiate.

Amendments to the text of this article and the zoning map may be initiated by written petition of any affected property owner, the city council, or the planning agency, provided the petition meets the requirements set forth in this section.
(Code 2015, § 10.98(3))

Sec. 10-2062. Requirements for petitions.

Petitions for amendments to this article shall be in such form and accompanied by such information as shall be prescribed, from time to time, by the planning agency and shall contain at least the following:

(1) The petitioner's name, address, and interest in the petition and the name, address, and interest of every person, firm, corporation, or government agency represented by the petitioner in the petition.

(2) The precise wording of the proposed amendment, together with concise explanation of its presumed effect.

(3) A statement containing all the circumstances, factors, and arguments that the petitioner offers in support of the proposed amendment.

(4) In the event that the proposed amendment would result in the rezoning of any property, the following shall be supplied:

   a. A statement specifying the names of the owners of the land proposed to be rezoned.

   b. A statement identifying the majority of owners of the land proposed to be rezoned and being parties to the petition.

   c. The street address and legal description of the land proposed to be rezoned.

   d. The present zoning classification and use of the land proposed to be rezoned.

   e. A preliminary plat if the property is not currently subdivided into lots and blocks in conformance with article XII of this chapter.

   f. A concept development plan for the property if the property is vacant or is intended to be redeveloped.

   g. A statement of purpose explaining the reasons for the rezoning.

(Code 2015, § 10.98(4))

Sec. 10-2063. Standards.

In making their determination, the city council shall consider the following:

(1) Whether the proposed amendment is consistent with the goals, objectives, and policies of the comprehensive land use plan, as adopted and amended from time to time by the city council.

(2) Whether the proposed amendment is compatible with the overall character of existing development in the immediate vicinity of the affected property.

(3) Whether the proposed amendment will have an adverse effect on the value of adjacent properties.

(4) The adequacy of public facilities and services.

(Code 2015, § 10.98(5))

Sec. 10-2064. Procedure for review and decision.

A petition to amend the text of this article and the official zoning map shall be processed in accordance with the following procedures:

(1) *Public hearing.* After the filing of a petition for an amendment in the proper form, the zoning administrator shall set a date for a public hearing.

(2) *Notice.* Notice of the public hearing shall be given by the planning agency by one publication in one or more newspapers of general circulation. Notice shall be published a minimum of ten days prior to the hearing date and a maximum of 30 days to the hearing. Notice shall also be given by first class mail to all owners of property within 350 feet of the area proposed to be rezoned, or as otherwise provided by state law. County assessment records and street addresses shall be deemed sufficient for the location or certification of ownership for notification purposes.

(3) *Planning agency action.* Upon receipt of the petition, including a copy of the proposed text or map changes, the planning agency shall hold a public hearing. Within 60 days of the close of the public hearing, the planning agency shall recommend the approval or denial of the proposed amendment, or the approval of the amendment with modifications, and shall then submit its written recommendation, together with the petition for the text or map change, to the city council.

(4) *City council action.* The city council shall either adopt or reject the recommendation of the planning agency or adopt some modification of the recommendation of the planning agency. No amendment shall be adopted except by the affirmative vote of two-thirds of all members of the city council.

(Code 2015, § 10.98(6))

Sec. 10-2065. Fees.

An applicant for an amendment shall pay a nonrefundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the city council.
(Code 2015, § 10.98(7))

Secs. 10-2066—10-2093. Reserved.

DIVISION 10. APPEALS

Sec. 10-2094. Authority.

The board of adjustments and appeals shall hear and decide appeals from any order or final decision of the zoning administrator by any person aggrieved by such order or final decision.
(Code 2015, § 10.99(1))

Sec. 10-2095. Purpose.

The appeal process is provided as a safeguard against arbitrary, ill-considered, or erroneous administrative decisions. It is intended to avoid the need for legal action by establishing local procedures to review and correct administrative errors. It is not, however, intended as a means to subvert the clear purposes, meanings, or intent of this article or the rightful authority of the zoning administrator to enforce the requirements of this article. To these ends, the reviewing body should give all proper deference to the spirit and intent embodied in the language of this article and to the reasonable interpretations of that language by those charged with the administration of this article.
(Code 2015, § 10.99(2))

Sec. 10-2096. Stay of proceedings.

The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board of adjustments and appeals, after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order that may be granted by the board of adjustments and appeals or by a court of record.
(Code 2015, § 10.99(3))

Sec. 10-2097. Procedure.

An application for an appeal shall be processed in accordance with the following procedures:

(1) *Application.* An application for an appeal to the board of adjustments and appeals shall be filed with the zoning administrator no later than 45 days after the action or decision being appealed.

(2) *Action of zoning administrator.* Upon receipt of properly completed application for an appeal, the zoning administrator shall forthwith transmit to the board of adjustments and appeals the application together with all papers constituting the record upon which the action appealed from was taken.

(3) *Public hearing.* Upon receipt of a properly completed application for an appeal, together with all papers constituting the record upon which the action appealed from was taken, the board of adjustments and appeals shall set a date for a public hearing. The hearing shall be held in accordance with the board's adopted rules of procedures.

(4) *Notice.* Notice of the public hearing shall be given by the board of adjustments and appeals in accordance with the board's adopted rules of procedures.

(5) *Board of adjustments and appeals action.* The board of adjustments and appeals shall render its decision in accordance with the board's adopted rules of procedures. The board of appeals may reverse or affirm, wholly or partly, or may modify the order or final decision as in its option ought to be made in the premises, and to that end has all the powers of the officer from whom the appeal is taken.

(Code 2015, § 10.99(4))

Sec. 10-2098. Right to grant variances.

In any case where the application is accompanied by an application for a variance in accordance with division 5 of this article, the board of adjustments and appeals shall have the authority to grant, as part of the relief, a variance, provided it is done so in strict compliance with the provisions of division 5 of this article.

(Code 2015, § 10.99(5))

Sec. 10-2099. Conditions and limitations on rights granted.

In any case where this article imposes conditions and limitations upon any right, any such right granted by the board of adjustments and appeals on appeal shall be subject to such conditions and limitations in the same manner and to the same extent as if secured without the necessity of an appeal.

(Code 2015, § 10.99(6))

Sec. 10-2100. Fees.

An applicant, for an appeal, shall pay a nonrefundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established from time to time by the city council.

(Code 2015, § 10.99(7))

Secs. 10-2101—10-2118. Reserved.

ARTICLE XII. SUBDIVISION AND DEVELOPMENT REGULATIONS (PLATTING)

DIVISION 1. GENERALLY

Sec. 10-2119. Interpretation.

The provisions of this article establish regulations for the subdivision and platting of land within the city; defining certain terms used therein; providing for the preparation of plats; providing for the installation of utilities, streets and other improvements; providing for the dedication of certain land for parks and playgrounds; and establishing procedures for the approval and recording of plats.
(Code 2015, § 11.01(1); Ord. of 4-28-1980)

Sec. 10-2120. Purpose.

In order to safeguard the best interests of the community and to assist the subdivider in harmonizing his interests with those of the city at large, the following regulations are adopted in order that adherence to same will bring results beneficial to both parties. Because each new subdivision becomes a permanent unit in the basic unit structure of the expanding community, and to which the community will be forced to adhere, and because piecemeal planning of subdivisions will bring an undesirable disconnected patchwork of pattern and poor circulation of traffic unless its design and arrangement is correlated to a master plan of the city aiming at a unified scheme of community interests, all subdivision of land hereafter submitted for approval to the planning commission shall, in all respects, fully comply with the regulations hereinafter set forth in this article. It is the purpose of the chapter to make certain regulations and requirements for the platting of land within the city pursuant to the authority contained in M.S.A. chs. 429, 471, and 505, which regulations the city council deems necessary for the health, safety and general welfare of this community.
(Code 2015, § 11.01(2); Ord. of 4-28-1980)

Sec. 10-2121. Jurisdiction.

The regulations herein governing plats and subdivision of lands shall apply within the corporate limits of the city and any areas beyond the corporate limits in which the city has authority to approve plats and subdivisions.
(Code 2015, § 11.01(3); Ord. of 4-28-1980)

Sec. 10-2122. Definitions.

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

Alley means a public right-of-way which affords a secondary means of access to abutting property.

Block means an area of land within a subdivision that is entirely bounded by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

City engineer means a professional engineer as designated by the city manager.

Comprehensive development plan means the comprehensive plan prepared and adopted by the planning commission and approved by the council, which indicates the general locations recommended for the various functional classes of public works, places and structures and for the general physical development of the city and included any unit or part of such plan separately adopted and any amendment to such plans or parts thereof.

Define standards means the specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum minimum or maximum dimensions of such items as right-of-way, blocks, easements, and lots.

Deflection point means the angle between a line and the prolongation of the preceding line.

Easement means a grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, electric lines, telephone lines, storm sewer or storm drainageways, gas lines and walkways.

Final plat means a drawing or map of a subdivision, meeting all the requirements of the city and in such form as required by the city for the purposes of recording.

Hardshell refers to the white mat card stock on which a final plat is prepared and when appropriate signatures are affixed, is presented to the county recorder for official recording.

Lot is defined in section 10-2.

Mylar refers to a reproducible copy of the plat which is produced by a photographic process.

Pedestrian way means a public or private right-of-way across a block or within a block to provide access, to be used by pedestrians and which may be used for the installation of utility lines.

Percentage of grade, on street centerline, means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

Planning agency is defined in section 10-2.

Planning commission means the planning commission of the city.

Preliminary plat means the preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the planning commission for its consideration.

Protective covenants means contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical, social and economic integrity of any given area.

Sepia refers to a reproducible copy of the plat which can be produced by processing through a blue line machine.

Street means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or however otherwise designated.

Street cul-de-sac means a minor street with only one outlet and having an appropriate terminal for the sage and convenient reversal of traffic movement.

Street frontage roads means minor streets which are parallel and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

Street local street means streets which serve to provide access to abutting properties from the higher order systems.

Street urban collector means streets which distribute trips from the arterials through the area to the ultimate destination which may be on a local street.

Street urban minor arterial means a street which interconnects with and augments the urban principal arterial system and provides service to trips of moderate length with lower level of travel than principal arterials. This system distributes travel to smaller geographical areas than the principal arterial.

Street urban principal arterial means a street which serves the major center of activity of a metropolitan area, contains the highest traffic volume corridors, and has the longest trips.

Street width means the shortest distance between lines of lots delineating.

Subdivision means a described tract land which is to be divided into two or more lots or parcels, any of which resultant parcels is less than 20 acres in area, for the purpose of transfer of ownership or building development or, if a new street is involved, any division of a parcel of land. The term includes a resubdivision and, where it is appropriate to the context, related either to the process of subdividing or to the land subdivided.

Tangent means a straight line projected from the ends of two curves, which is perpendicular to a line in each curve drawn from the radii point to the end of the curve.

USGS datum refers to the United States Geodetic Survey Datum.

Vertical curve means the surface curvature on a street centerline located between lines of difference percentage of grade.
(Code 2015, § 11.02; Ord. of 4-28-1980; Ord. of 1-8-1995)

Secs. 10-2123—10-2147. Reserved.

DIVISION 2. PROCEDURE

Sec. 10-2148. Concept plan review.

Prior to the filing of an application of a preliminary plat, the owner and his surveyor/engineer shall meet with the city engineer and planning director for informal discussion of the proposed plat. As far as may be practical on the basis of informal discussion, the city engineer and planning director will advise the owner as to the extent which a proposed subdivision concept conforms to the comprehensive development plan and suggest possible plan modifications necessary to ensure conformance. In addition to informal review of the concept, the owner shall be notified of the kind and extent of improvements to be made by him as part of a subdivision agreement.
(Code 2015, § 11.03(1); Ord. of 4-28-1980)

Sec. 10-2149. Disagreement.

If there is a disagreement between the owner/developer and the staff during the concept plan review, either the owner/developer or the staff may request that the planning commission review the proposed subdivision and make a determination as to whether the proposed development concept is acceptable.
(Code 2015, § 11.03(2); Ord. of 4-28-1980)

Sec. 10-2150. Preliminary plat submission.

Before any lot or parcel less than five acres in area may be conveyed of record or simultaneous with any unplatted land transferred from one zoning district to another zoning district, the owner shall file with the zoning administrator at least 15 working days before a regular meeting date of the planning commission.

(1) A completed subdivision application including payment of fees.

(2) Four prints of a preliminary plat, one of which shall be a reproducible sepia.

(3) An up-to-date abstract of title or registered property report showing title in the applicant, or an option to buy the property shown on the preliminary plat.

(4) Other supplementary material as enumerated in this article.
(Code 2015, § 11.03(3); Ord. of 4-28-1980)

Sec. 10-2151. Review and action.

Upon receipt of the above information, the zoning administrator shall place the proposed plat on the agenda of the next regular planning commission meeting and notify the subdivider, the owners of record of the property immediately adjoining the land within the plat and other property owners as required by state statute, of such meeting date. The planning commission shall, within a reasonable time, pass upon the preliminary plat as originally submitted or modified. If approved, the planning commission shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its reasons therefor. Such approval or disapproval shall be transmitted to the council and the council shall approve or disapprove the preliminary plat. Approval means the acceptance of the preliminary as a basis for preparation of a final plat.
(Code 2015, § 11.03(4); Ord. of 4-28-1980)

Sec. 10-2152. Final plat.

A final plat, conforming substantially to the preliminary as approved, shall be submitted to the zoning administrator at least 15 days before a regularly scheduled meeting of the planning commission. The zoning administrator shall place the final plat on the agenda of the next regular planning commission meeting and send notices as are required.
(Code 2015, § 11.03(5); Ord. of 4-28-1980)

Sec. 10-2153. Submission requirement.

Four prints of such final plat, one of which shall be reproducible sepia. Such final plat shall be prepared and presented in accordance with provisions of state statutes and county regulations.
(Code 2015, § 11.03(6); Ord. of 4-28-1980)

Sec. 10-2154. Partial final plat.

The owner may file a final plat limited to such portion of the preliminary plat which he proposed to record and develop at the time, provided that such portion conforms to all requirements of this article.
(Code 2015, § 11.03(7); Ord. of 4-28-1980)

Sec. 10-2155. Planning commission.

When a final plat meets all of the conditions of this article, the planning commission shall recommend approval to the council and the council shall act thereon. Following final approval or disapproval by the council, the planning agency shall notify the owner or subdivider of the council's action and each final plat, when duly certified, signed and acknowledged by the planning commission and council, shall then be recorded by the owner in the office of the county recorder. After the final plat has been filed by the county recorder, the owner shall provide the city engineer with a Mylar copy of the final as executed.
(Code 2015, § 11.03(8); Ord. of 4-28-1980)

Sec. 10-2156. Lapse of preliminary approval.

Approval of a preliminary plat shall become null and void if a final plat has not been submitted for all or part of the preliminary within one year from the approval of the preliminary plat by the council.
(Code 2015, § 11.03(9); Ord. of 4-28-1980)

Sec. 10-2157. Data required for preliminary plat.

The following information shall be submitted with or on the preliminary plat.

(1) *Identification and description.*

a. Proposed name of subdivision, which name shall not duplicate the name of any plat heretofore recorded in the county.

b. Location by section, township and range, or by other legal description.

c. Names and addresses of the owner and subdivider control of the lands included in the preliminary plat, the designer of the plat and the surveyor.

d. Graphic scale, not less than one inch to 100 feet.

e. North point, designated as true north.

f. Date of preparation.

(2) *Existing conditions.*

a. Boundary line survey, unless waived by the planning agency, including measured distances and angles, which shall close by latitude and departure with an error of closure not exceeding one foot in 10,000 feet.

b. Total acreage in the preliminary and individual lots, computed to 0.01 of an acre.

c. Location and names of existing or platted streets or other public ways, parks or other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of 100 feet beyond the tract.

d. If the proposed subdivision is a rearrangement or a replat of any former plat, the lot and block arrangement of the original plat along with its original name shall be indicated by dotted or dashed lines. Also, any revised or vacated roadways of the original plat shall be so indicated.

e. Location and size of existing paved streets, railroads, sewers, water mains, quarries, gravel pits, culverts, or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Also such data as grades, invert elevations and location of catchbasins, manholes, and hydrants.

f. Boundary lines of adjoining platted or unplatted land and owners of all tracts of land within 100 feet.

g. Complete topographic map with contour intervals not greater than two feet, water-courses, marshes, rock outcrops and other significant features; all superimposed on at least two prints of the preliminary. United States Geodetic Survey Datum shall be used for all topographic mapping. High water elevation and date thereof if part or all of plat adjoins a watercourse.

h. A separate copy of restrictive covenants, if any, of all adjoining subdivisions.

(3) *Design features.*

a. Layout of streets, showing right-of-way widths and names.

b. Locations and widths of alleys, pedestrian ways and utility easements.

c. Proposed centerline grades of streets and alleys, if any, showing both existing and proposed grade lines.

d. Location, size and approximate gradient of sewer lines.

e. Location, size and valving of water lines.

f. Location and size of drainage facilities and general grading plans.

g. Layout, lot and block numbers, and typical lot dimensions scaled to the nearest foot.

h. Areas other than those mentioned above intended to be dedicated for public use, including size.

i. A draft of proposed restrictive covenants, if any are contemplated.

(Code 2015, § 11.04; Ord. of 4-28-1980)

Secs. 10-2158—10-2187. Reserved.

DIVISION 3. DESIGN STANDARDS

Sec. 10-2188. General requirements.

(a) The planning commission, in its review of a preliminary plat, will take into consideration the requirements of the community and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and widths of streets, the general drainage situation, lot sizes and arrangement, as well as comprehensive development plan requirements for parks, school sites and streets, but not limited to, these.

(b) The preliminary plat shall cover all of the subdividers contiguous land, but the final plat may cover only a portion of the preliminary plat, provided it is in conformance with the approved preliminary plat and other requirements herein.

(c) Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

(d) Drainage shall be provided for in the subdivision by adequate storm drains or by maintenance of natural drainage channels.

(e) Where surface water runoff will be increased because of proposed development, beyond the capacity of existing storm systems, stormwater holding areas, ponds, or existing drainage channels shall be dedicated. The dedication may not be considered as part of the required public open space dedication.

(f) Subdivisions showing unplatted strips or private streets controlling access to public ways shall not receive approval.
(Code 2015, § 11.05(1); Ord. of 4-28-1980)

Sec. 10-2189. Streets.

(a) The arrangement, character, extent, width and location shall conform to the comprehensive development plan, the approved standard street sections and all applicable ordinances, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to runoff of stormwater, to public convenience and safety and in their appropriate relation to the proposed uses of the area to be served.

(b) Street right-of-way widths shall be as shown in the comprehensive development plan and where not shown therein, shall be not less than as follows:

Street Types	*Feet*
Urban principal arterial	120
Minor arterial	100
Urban collector	80
Local	60

(c) Local streets in planned developments may have an approved right-of-way of 40 feet under the following conditions:

(1) Ten-foot utility easements are provided on each side of the right-of-way.

(2) Sidewalks and pedestrian paths are built as part of the initial development, off the street right-of-way.

(3) Suitable off-street parking space is provided to compensate for ban of off-street parking.
(Code 2015, § 11.05(2); Ord. of 4-28-1980)

Sec. 10-2190. Easements.

(a) Easements at least 20 feet wide centered on exterior lot lines and ten feet wide centered on interior lot lines, shall be provided for utilities, where necessary. Easements shall have continuity of alignment from block to block and at deflection points.

(b) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse shall be provided, together with such further width or construction, or both, as will be adequate for the stormwater drainage of the area.
(Code 2015, § 11.05(4); Ord. of 4-28-1980)

Sec. 10-2191. Block standards.

(a) The maximum length of blocks shall be 1,200 feet. Blocks over 600 feet long may require pedestrian ways at least ten feet wide at their approximate centers. The use of additional access ways to schools, parks and other destinations may be required.

(b) Residential blocks shall normally be of sufficient width for two tiers of lots.

(c) Blocks intended for commercial and industrial use shall be designed as such.
(Code 2015, § 11.05(5); Ord. of 4-28-1980)

Sec. 10-2192. Lot standards.

(a) Corner lots in residence districts R-1 and R-2 shall have at least ten feet extra width and sufficient depth for establishing building setback on both streets.

(b) All lots shall have at least the minimum of 30 feet required frontage on a publicly dedicated street.

(c) Side lot lines shall be substantially at right angles or radial to the street line.

(d) Double-frontage or lots with frontage on two parallel streets shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome topographic or other conditions which render subdividing otherwise unreasonable. Such double-frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the rear lot line.

(e) Lots intended for commercial, industrial and multiple dwelling unit use shall be designed as such and the lot must be of adequate size to allow off-street parking, loading areas and such other facilities as are required to satisfy the requirements of chapter 6.

(f) Lots abutting on a watercourse, drainageway, channel or stream shall have an additional depth or width, as required, to ensure building sites that are not subject to flooding at the level of the 100 year flood, as determined by the U.S. Army Corp. of Engineers.
(Code 2015, § 11.05(6); Ord. of 4-28-1980)

Sec. 10-2193. Public sites and open spaces.

(a) All new subdivisions shall dedicate land for public use such as parks, playgrounds or other open space use according to the following types of subdivisions:

(1) Residential subdivision of up to ten dwelling units per gross acre: five percent of the total gross area.

(2) Residential subdivision in excess of ten dwelling units per gross acre: seven percent of the total gross area.

(3) Commercial and industrial subdivision: five percent of the gross area.

(b) The term "new subdivision" shall not apply where property lines are being surveyed for the purpose of correcting previous descriptions, situations where individuals are buying or selling land only to increase their yard space for individual properties or the resubdivision of an area where a previous dedication was made.

(c) Where a proposed park, playground or open space, as shown on the comprehensive development plan, is located in whole or in part in a subdivision, the council may require the dedication of such area within the subdivision in those cases where the council deems such requirements to be reasonable.

(d) When in the judgment of the planning agency, a subdivision is of insufficient size to include an area for park and playground or the subdivision is not designated as an area for playground or park in the comprehensive development plan, the owner or subdivider, in lieu of property dedication, shall pay to the city a sum of money equal to the required dedication percentage multiplied by the gross value of the subdivision. The gross unimproved value of the subdivision shall be determined in accordance with the intended use of the property. The city shall request the county assessor to establish a market value on the proposed use minus any improvements. Payment to the city of the required open space dedication, whether in dedicated property monies, shall be accomplished by the property owner or subdivider at the time of final platting, provided further that where money in lieu of land is to be paid to the city, such money may be paid in a manner established by policy of the council. In no case shall the plat be signed or building permit issued for any lot within the subdivision until such transfer of land or payment in lieu of land has been completed. Any money paid to the city shall be placed in a special fund to be used for the acquisition of land for parks and playgrounds only.
(Code 2015, § 11.05(7); Ord. of 4-28-1980)

Secs. 10-2194—10-2214. Reserved.

DIVISION 4. DATA REQUIRED FOR FINAL PLAT

Sec. 10-2215. General requirements.

(a) Subdivision boundary lines (including measured distances and angles, which shall close by latitude and departure with an error of closure not exceeding one foot in 10,000 feet), street rights-of-way, easements, lot lines, lines of all other sites and of all reservations; with accurate dimensions. Points on the boundary of the final plat shall be shown as coordinate value of the state plane coordinate system when such coordinate system becomes available.

(b) Dimensions of the plat shall be one inch equals 100 feet.

(c) When there is more than one sheet, an index sheet shall be attached, showing the entire subdivision, including boundary and streets, at an appropriate scale. On each sheet, there shall be match lines for matching all adjoining sheets.

(d) Municipal, township, county, or section lines accurately tied to the lines of the subdivision by distance and angles.

(e) Streets and roadways to be named and the names indicated on the plat. A sequence of street naming shall be followed, consistent to the pattern that has been established by policy in the particular area under consideration. All dimensions shall be shown for streets, roadways, etc. Horizontal curve data shall be indicated by radius and degree. Chord bearings and lengths of all arcs shall be shown.

(f) The boundary line of the property to be included within the plat is to be fully dimensioned; all angles of the boundary to be indicated; all monuments and surveyor's irons to be indicated; each angle point of the boundary perimeter to be so monumented. Location and ties of monuments that cannot be set at proper location because of physical hardship shall be delineated on the outside boundary of the final plat.

(g) Pipes or steel rods shall be placed at each corner of each lot and at each intersection of street centerlines. All federal, state, county, or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and blocks, as an aid to future surveys, shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.

(h) Lots are to be numbered in numerical order and in tracts containing more than one block, the blocks are to be numbered in numerical order.

(i) Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision, with the purposes indicated therein.

(j) In case of a rearrangement or replat, the original platting of the subdivision shall be shown in dotted lines.

(k) Low land and water areas shall be indicated by proper identification symbols. Floodway and flood fringe zones shall be shown as delineated by current floodplain maps.

(l) All easements for utilities and drainage, being of record, of nonrecorded agreement or intended for dedication shall be indicated and dimensioned.

(m) The name of the subdivision shall be lettered in prominent print at the top of the plat, together with the name of the city, township and county wherein the subdivision lies. The name of the subdivision shall be simple in nature, easy to pronounce and shall not duplicate in exact name any plat of record in the city or the county.

(n) Notarized certification by a registered land surveyor to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.

(o) Notarized certification by owner, and by any mortgage holder of record of the adoption of the plat and the dedication of streets and other public areas.

(p) Certification showing all delinquent taxes and special assessments due on the property have been paid in full.

(q) Forms of approval, available in the office of the city clerk, shall be as determined from time to time by the city council.
(Code 2015, § 11.06; Ord. of 4-28-1980)

Secs. 10-2216—10-2243. Reserved.

DIVISION 5. BASIC IMPROVEMENTS REQUIRED

Sec. 10-2244. Approval and agreement requirement of plat.

(a) Before a final plat is approved by the council, the owner and subdivider of the land covered by the plat shall execute and submit to the council an agreement which shall be binding on his or their heirs, personal representatives and assigns, that he will cause no private construction to be made on the plat or file or cause to be filed any application for building permits for such construction until all improvements required under this article have been made or arranged for in the manner following as respects the streets to which the lots sought to be constructed have access.

(b) The agreement shall provide that all of the required improvements will be made in accordance with standards established by the city engineer, and shall include adequate provisions in the form of escrow deposits or other form of deposit acceptable to the city council; to ensure that all improvements accomplished by the subdivider will comply with such standards.

(c) The agreement shall provide that the subdivider shall make an advance payment to the city of a percentage of the estimated total costs of those improvements which are to be accomplished by the city, the amount of such advance payment shall be determined by the city council, terms for payment of the balance of the total cost shall be provided in the agreement.

(d) Approval of the final plat and agreement of the city council shall be contingent on the deposit of those sums to the city required by the agreement. No signatures indicating the city's approval of the plat will be affixed to the plat until such sums have been deposited with the city clerk.

(e) Before the subdivider makes any sale, conveyance or assignment of any lot or parcel in the subdivision, the city clerk shall have on file a notarized copy of a concurrence document wherein the subsequent owner acknowledges that he has seen and accepted the basic improvements agreement and that he agrees to such improvements and the assessment of their cost. The concurrence document shall be attached to and made a part of the subdivision basic improvements agreement made between the subdivider and the city.
(Code 2015, § 11.07(1); Ord. of 4-28-1980)

Sec. 10-2245. Sanitary and storm drains.

(a) Sanitary sewers shall be installed to serve all properties in the subdivision where a connection to the city sewer system is available at the boundary of the subdivision.

(b) Storm drains shall be constructed to serve all properties in the subdivision where a connection to the city storm drainage system is available or can be developed at the boundary of the subdivision.

(c) If approved by the city council, both storm drain and sanitary sewer may be installed under contract by the city after petition for same by the owner. The cost shall be assessed against all lots in the subdivision over a period of not to exceed ten years unless otherwise determined by the city council.

(d) All construction must conform to the standards of the city for such work.
(Code 2015, § 11.07(2); Ord. of 4-28-1980)

Sec. 10-2246. Water supply.

(a) Where a connection to the city water system is presently available at the boundary of the subdivision, water distribution facilities, including fire hydrants, shall be installed to serve all properties within the subdivision. Water mains shall be a minimum of eight inches in diameter and shall meet all city standards therefor.

(b) If approved by the city council, water mains may be installed under contract by the city after petition for the same by the owner. The cost shall be assessed against all lots in the subdivision over a period of not to exceed ten years, unless otherwise determined by the city council.
(Code 2015, § 11.07(3); Ord. of 4-28-1980)

Sec. 10-2247. Street improvements.

Petitions for right-of-way grading, base preparation, curb and gutter, pavement and sidewalks, covering all streets in the subdivision shall be filed, or if these improvements are to be installed by the owner or subdivider under contract, a cash deposit or bond covering the cost, as estimated by the city engineer, shall be made in accordance with section 10-2244(d).
(Code 2015, § 11.07(4); Ord. of 4-28-1980)

Sec. 10-2248. Street trees.

(a) Boulevard trees will be mandatory. The developer shall submit a planting plan during the preliminary review of the proposed subdivision. Such plan shall describe species of planting, height, diameter of trunk and distances between plantings.

(b) Trees may be planted within the boulevard but shall not be planted in utility easements.

(c) Trees shall be spaced a minimum of 30 feet apart.

(d) Trees shall not be planted within 30 feet of street intersections.

(e) Trees will be a minimum size of 1.75 inches to two inches in diameter. Tree diameter is measured six inches above ground level.

(f) Trees shall not be planted within three feet of private utility hook-ups, utility mains, and concrete drives or walks.

(g) Property owners will be responsible for the care of the trees.

(h) Trees used for street planting must be compatible with the local landscape conditions and not presently under disease epidemic. Prohibited tree species include all conifer, evergreen, poplar, box elder, elm, silver maple and fruit bearing trees.
(Code 2015, § 11.07(5); Ord. of 4-28-1980)

Sec. 10-2249. Public utilities.

All electrical distribution systems, telephone transmission systems and community antenna television systems serving subdivisions which are platted pursuant to the provisions of this article shall be installed as per requirements stated in chapter 14, article II.
(Code 2015, § 11.07(6); Ord. of 4-28-1980)

Secs. 10-2250—10-2266. Reserved.

DIVISION 6. VARIANCES

Sec. 10-2267. General conditions.

(a) The planning commission may recommend to the council a variance from the provisions of division 5 of this article when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the council shall take into account the nature of the proposed use of land, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the council finds:

(1) That there are special circumstances or conditions affecting the property such that strict application of the provisions of this article would deprive the applicant of the reasonable use of his land.

(2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(3) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(4) That strict application of the subdivision regulations would create an undue hardship on a property owner as opposed to a mere inconvenience.

(b) Recommendations of variances to the council shall list findings of fact and reasons substantiating the finds of fact.
(Code 2015, § 11.08; Ord. of 4-28-1980)

Secs. 10-2268—10-2287. Reserved.

DIVISION 7. PLANNED UNIT DEVELOPMENTS (PUD)

Sec. 10-2288. Application.

Upon receiving a report from the planning commission, the council may grant a variance from the provisions of these regulations in the case of a planned unit development, as defined in article XI, division 4, of this chapter, provided that a conditional use permit approving such planned unit development had previously been granted or that such conditional use permit is under consideration at the same time as the platting of the property.
(Code 2015, § 11.09; Ord. of 4-28-1980)

Secs. 10-2289—10-2314. Reserved.

DIVISION 8. REGISTERED LAND SURVEYS (RLS)

Sec. 10-2315. Application.

All registered land surveys filed with the zoning administrator shall be subject to the same procedure as required for the filing of a plat. The standards and requirements set forth in this article shall apply to all registered land surveys. Unless the governing body shall approve, a registered land survey shall not be used to divide a parcel of land into tracts for the purpose of transfer of ownership or building development, if any of the tracts do not have minimum lot area or required frontage on a dedicated public street.
(Code 2015, § 11.10; Ord. of 4-28-1980)

Secs. 10-2316—10-2338. Reserved.

DIVISION 9. CONFORMANCE TO ARTICLE X (LAND USE)

Sec. 10-2339. Final approval does not relieve obligation.

Final approval of any plat or registered land surveys under the provisions of this article shall not relieve the developer or property owner of any obligation to meet all requirements contained in this chapter. Any provision of this article which is more restrictive shall apply.
(Code 2015, § 11.11; Ord. of 4-28-1980)

Secs. 10-2340—10-2356. Reserved.

DIVISION 10. FEE

Sec. 10-2357. Preliminary and final plat.

The preliminary and final plat shall be accompanied by a fee as may be established by resolution of the city council and provided in the city fee schedule.
(Code 2015, § 11.12; Ord. of 4-28-1980; Ord. of 10-12-1992)

Secs. 10-2358—10-2377. Reserved.

DIVISION 11. EXTENSION OF SUBDIVISION REGULATIONS

Sec. 10-2378. Regulations to include unincorporated territory within two miles.

The city, as enabled by M.S.A. § 462.358, subd. 1a, hereby extends the subdivision regulations of this chapter to unincorporated territory located within two miles of the city limits.
(Code 2015, § 11.13(intro. ¶); Ord. of 9-27-1993)

Sec. 10-2379. Exceptions.

Where two or more residential, commercial or industrial main use structures are located on one described parcel, the extension of this chapter shall not apply to the subdivision of such parcel if the purpose of the subdivision is to create separate parcels for each residential, commercial or industrial main use structure. In no case shall the application of this exception allow the creation of a vacant parcel. This exception shall only apply to those residential, commercial or industrial main use structures which were in existence at the time of the enactment of the ordinance from which this section is derived (September 27, 1993).
(Code 2015, § 11.13(1); Ord. of 9-27-1993)

Sec. 10-2380. Simple lot divisions.

The planning director and city engineer may administratively approve the division of platted property, provided all requirements of article XI of this chapter and article XII, division 3, of this chapter are satisfied and the division is accomplished by a maximum of two straight lines.
(Code 2015, § 11.14; Ord. of 9-27-1993)

Chapter 11

NUISANCES

Article I. In General

Sec. 11-1. Purpose and intent.
Sec. 11-2. Definitions.
Sec. 11-3. Conditions designated as Class I nuisances.
Sec. 11-4. Conditions or actions considered Class II nuisances.
Sec. 11-5. Prohibited acts generally.
Sec. 11-6. Disclosure of responsible party.
Sec. 11-7. Authorization to enter.
Sec. 11-8. Method of service of notices and orders.
Sec. 11-9. Criminal penalty.
Sec. 11-10. Administrative penalties.
Sec. 11-11. Applicability of abatement procedure.
Sec. 11-12. Abatement—Class I nuisances.
Sec. 11-13. Abatement—Class II nuisances.
Sec. 11-14. Emergency abatement procedure.
Secs. 11-15—11-31. Reserved.

Article II. Specific Nuisances

Division 1. Generally

Sec. 11-32. Refuse storage.
Sec. 11-33. Unlawful deposit of garbage, litter, and similar items.
Sec. 11-34. Authority of city council to manage waste disposal and promulgate rules.
Sec. 11-35. Junked motor vehicles.
Sec. 11-36. Graffiti.
Secs. 11-37—11-60. Reserved.

Division 2. Health Nuisances

Sec. 11-61. Water.
Sec. 11-62. Food, drugs, and beverages.
Sec. 11-63. Waste disposal.
Secs. 11-64—11-84. Reserved.

Division 3. Noise

Sec. 11-85. Definitions.
Sec. 11-86. Preparation of measuring site and measuring instruments.
Sec. 11-87. Motor vehicles.
Sec. 11-88. Sport vehicles.
Sec. 11-89. Hobby crafts, models and engines.
Sec. 11-90. Places of employment.
Secs. 11-91—11-108. Reserved.

Division 4. Diseased Trees

Sec. 11-109. Purpose and intent.
Sec. 11-110. Forester.
Sec. 11-111. Disease program.
Sec. 11-112. Nuisance violations.
Sec. 11-113. Inspection and investigation.
Sec. 11-114. Abatement of disease nuisance.
Sec. 11-115. Abatement of disease nuisance on private property.
Sec. 11-116. Interference prohibited.

ARTICLE I. IN GENERAL

Sec. 11-1. Purpose and intent.

The purpose of this chapter is to protect the public health, safety and welfare by the enactment of provisions which:

(1) Define public nuisance and nuisance conditions.

(2) Determine the responsibilities of owners and operators of dwellings and property for correction of nuisance conditions.

(3) Provide remedies to eliminate public nuisances.

(4) Provide for administration, enforcement and penalties.

(5) Promote the stabilization and maintenance of neighborhoods.

(Code 2015, § 9.77(1)(intro. ¶), (A)—(E); Ord. of 3-26-2007; Ord. of 2-23-2009)

Sec. 11-2. Definitions.

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

Attractive nuisance means a condition, such as a dangerous structure, an unsecured vacant or condemned building, or other condition, which, in the opinion of the city inspector, may attract non-owners or other unauthorized persons and which may expose them to risk, peril or danger.

City inspector means all persons appointed as enforcement personnel or acting as inspectors for the city or any other city employee designated by the city manager to enforce the provisions of this Code.

Dangerous structure means a structure which is potentially hazardous to persons or property, including, but not limited to:

(1) A structure which is in danger of partial or complete collapse; or

(2) A structure with any exterior parts which are broken, loose, or in danger of falling; or

(3) A structure with any parts, such as floors, porches, railings, stairs, ramps, balconies or roofs, which are accessible and which are either collapsed, in danger of collapsing or unable to support the weight of normally imposed loads.

Hazardous waste means any waste material so defined by M.S.A. § 116.06, subd. 11 or described or listed as hazardous waste in state administrative rules.

Interested party means any owner of record, occupying tenant, lienholder of record or other responsible party. For the purposes of this definition:

(1) The term "owner" means the person shown to be owner on the records of the county property information and taxpayer services.

(2) The term "responsible party" means any one or more of the following: agent; assignee or collector of rents; holder of a contract for deed; a mortgagee or vendee in possession;

receiver of executer or trustee; lessee; those known to the city inspector as having an ownership interest; or other person, firm or corporation exercising apparent control over a property.

Last known address means the address shown on the records of the county property information and taxpayer services or a more recent address known to the city inspector. In the case of parties not listed in these records, the last known address shall be that address obtained by the officer after a reasonable search.

Nuisance means any substance, matter, emission or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety or sanitary condition of the city or which is offensive or has a blighting influence on the community and which is found upon, being discharged from, or flowing from any street, alley, highway, railroad right-of-way, vehicle, railroad car, water, excavation, building, erection, lot, grounds or other property located within the city. The term "nuisance" includes acts and omissions defined in this Code or by state law as nuisances.

Nuisance building means a vacant building or portion of a vacant building which has multiple housing code or building code violations or has been ordered vacated by the city or which has a documented and confirmed history as a blighting influence on the community.

Refuse means putrescible and nonputrescible and combustible and noncombustible waste, including paper, garbage, material resulting from the handling, processing storage, preparation, serving and consumption of food, vegetable or animal matter, offal, rubbish, plant wastes such as tree trimmings or grass cuttings, ashes, incinerator residue, street cleanings, construction debris, detached vehicle parts, furniture and solid industrial and market wastes.

Service means service by mail or personal service, which are defined as follows:

(1) The term "service by mail" means by depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage prepaid thereon.

(2) The term "personal service" means service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

Statutory nuisance and *common law nuisance* mean any thing or condition on property which is known to the common law of the land, state statutes, or this Code as a nuisance.
(Code 2015, § 9.77(2), (10)(intro. ¶); Ord. of 3-26-2007; Ord. of 2-23-2009; Ord. No. R-2022-0912-9, § 9.77(10), 9-12-2022)

Sec. 11-3. Conditions designated as Class I nuisances.

For the purposes of this chapter, the following conditions when existing or allowed to exist in the city shall be designated as Class I nuisances:

(1) *Hazards generally.* Things or conditions on the property which, in the opinion of the city inspector, may contribute to injury of any person present on the property, which shall include, but not be limited to, open holes, open foundations, open wells, dangerous trees or limbs or abandoned appliances.

(2) *Fire hazards.* A thing or condition on the property which, in the opinion of the city inspector, creates a fire hazard or which is a violation of the fire code.

(3) *Health hazards.* A thing or condition on the property which, in the opinion of the city inspector, creates a health hazard or which is a violation of any health or sanitation law.

(4) *Improperly managed chlorides.* Any commercial, industrial or non-NPDES permitted industrial facility that doesn't comply with the following:

a. Designated salt and deicer storage areas must be covered or indoors; and

b. Designated salt and deicer storage areas must be located on an impervious/ waterproof surface; and

c. Facilities must implement practices to reduce exposure when transferring material in designated salt and deicer storage areas (e.g., sweeping, diversions, or containment).

(5) *Insects, rodents, or pest harborage.* Conditions which are conducive to the presence, harborage or breeding of insects, rodents or other pests.

(6) *Nuisance buildings.* Any building or portion of a building which is a nuisance as defined in this chapter.

(7) *Obstructions over public sidewalks.* Shrubs, bushes, trees, vines or other uncontrolled vegetation which has grown over the public sidewalk and which obstructs, interferes with, or renders dangerous for passage any public sidewalk.

(8) *Pet waste.* Any owner, keeper, or person in control of an animal failing to clean up any droppings of the animal or dispose of the droppings in a sanitary manner.

(9) *Sight triangle obstructions.* A fence, wall, shrubbery or other obstruction to vision above a height of 30 inches from the established street grade within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection. Structures permitted under chapter 10, article V, divisions 4, 5, and 9 may encroach into the required sight triangle as defined by section 5-20(b), provided the structure location does not unduly restrict vehicular or pedestrian sight distances.

(10) *Unsecured unoccupied buildings.* Unoccupied buildings or unoccupied portions of buildings which are unsecured. Owners may be required to replace coverings over broken or missing windows or doors with the appropriately sized windows or doors.

(11) *Roll-off dumpsters.* Roll-off style trash dumpsters left on properties for longer than 90 days that are not associated with an active construction project or otherwise permitted by this Code.

(12) *Improperly parked vehicles.* Motor vehicles not parked on hard surfaced parking areas as required by section 10-1619(6).

(13) *Occupations or commercial activity.* Occupations or commercial activity operated, maintained or permitted in violation of chapter 10, article X, division 2.

(14) *Construction debris.* Spoil piles of fill, excavation or construction debris existing for periods longer than seven days unless otherwise approved by the city.

(15) *Dangerous structures.* Any structure meeting the definition of the term "dangerous structure" in section 11-2.

(16) *Other conditions.* Any other conditions whereby a substance, matter, emission or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety or sanitary condition of the city or which is offensive or has a blighting influence on the community and which is found upon, being discharged, or flowing from any street, alley, highway, railroad right-of-way, vehicle, railroad car, water, excavation, building, erection, lot, grounds or other property located within the city exists or is allowed to exist.

(Code 2015, § 9.77(10)(A); Ord. of 3-26-2007; Ord. of 2-23-2009; Ord. No. R-2022-0912-9, § 9.77(10)(A), 9-12-2022)

Sec. 11-4. Conditions or actions considered Class II nuisances.

For the purposes of this chapter, Class II nuisances shall include conditions existing or allowed to exist in the city that constitute violations of this Code and conditions or actions defined as nuisances in this or any other chapter of this Code other than those that constitute Class I nuisances.

(Code 2015, § 9.77(10)(B); Ord. of 3-26-2007; Ord. of 2-23-2009; Ord. No. R-2022-0912-9, § 9.77(10)(B), 9-12-2022)

Sec. 11-5. Prohibited acts generally.

No person shall directly or indirectly or by omission create a nuisance, and no owner or responsible party shall allow a nuisance to remain upon or in any property or structure under his or her control.

(Code 2015, §§ 9.66, 9.77(3); Ord. of 3-26-2007; Ord. of 2-23-2009)

Sec. 11-6. Disclosure of responsible party.

Upon the request of the city inspector, a responsible party or owner shall disclose the name of any other responsible party or owner known to him or her. This shall include, but not be limited to, the person for whom he or she is acting, from whom he or she is leasing the property, to whom he or she is leasing the property, with whom he or she shares joint ownership, or with whom he or she has any contact pertaining to the property.

(Code 2015, § 9.77(5); Ord. of 3-26-2007; Ord. of 2-23-2009)

Sec. 11-7. Authorization to enter.

The city inspector shall be authorized to enter any property or structure in the city for the purpose of enforcing and ensuring compliance with the provisions of this chapter. An owner or responsible party shall, upon the request of the city inspector, provide access to all interior portions of a building

in order to permit the officer to make a complete inspection. Failure to allow the city inspector full access to the property and structure is a violation of this chapter for which the person refusing access may be cited.
(Code 2015, § 9.77(7); Ord. of 3-26-2007; Ord. of 2-23-2009)

Sec. 11-8. Method of service of notices and orders.

When service of an order or notice is required, any one or more of the following methods of service shall be adequate:

(1) By personal service; or

(2) By certified mail, through the U.S. Postal Service; or

(3) By U.S. mail, unless it is a written order which gives three days or less for the completion of any act it requires; or

(4) If the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the order in a conspicuous place on the property; or

(5) If a mailed order or notice is returned by the U.S. Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed.

(Code 2015, § 9.77(8); Ord. of 3-26-2007; Ord. of 2-23-2009)

Sec. 11-9. Criminal penalty.

Unless otherwise specifically provided herein, any person who violates any provision of this chapter, or fails to comply with a lawful written order issued pursuant to this chapter or a lawful verbal order issued pursuant to this chapter, shall be guilty of a misdemeanor. Each day during which noncompliance or violation continues shall constitute separate misdemeanor offenses.
(Code 2015, § 9.77(4); Ord. of 3-26-2007; Ord. of 2-23-2009)

Sec. 11-10. Administrative penalties.

The city council may, by resolution, establish a schedule of administrative penalties for Class I and Class II nuisances. The amount of the penalty shall reflect the costs associated with inspection, notice and order, posting, or abatement of nuisances. Administrative penalties shall be imposed according to the schedule adopted by the city council. Administrative penalties may be imposed in addition to any criminal charges or fines.
(Code 2015, § 9.77(9); Ord. of 3-26-2007; Ord. of 2-23-2009)

Sec. 11-11. Applicability of abatement procedure.

Unless otherwise specified in this Code, the abatement processes in this chapter are to be used to abate and resolve nuisance conditions within the city.
(Code 2015, § 9.77(1)(end ¶); Ord. of 3-26-2007; Ord. of 2-23-2009)

Sec. 11-12. Abatement—Class I nuisances.

Unless the nuisance is as described in section 11-14, the city may abate Class I nuisances by the procedure described below:

(1) *Order.* The city inspector shall serve a written order upon the owner. The written order shall also be served upon any responsible party known to the officer and may be served upon any party known to have caused the nuisance. The written order shall contain the following:

a. A description of the property sufficient for identification;

b. A description and location of the nuisance and the remedial action required to abate the nuisance;

c. A statement that the nuisance is to be abated within ten days of the date of the order;

d. A statement that the order may be appealed by filing a written request with the city clerk before the appeal deadline, which shall be the abatement deadline designated in the order, or seven calendar days after the date of the order, whichever comes first; and

e. A statement that if remedial action is not taken nor a request for a hearing filed with the city clerk within the time specified, the city will abate the nuisance and charge all costs incurred therein against the owner of the property, and if cost is unpaid by the owner or responsible party, the costs will be charged against the property as a special assessment to be collected in the same manner as property taxes.

(2) *Appeal.* Within ten days of the date of abatement notice, an owner may request a hearing to appeal the nuisance. The appeal process will be conducted per chapter 2, article III, division 2.

(3) *Abatement by city.* If the remedial action is not taken nor an appeal filed within the time specified, the city may abate the nuisance.

(4) *Assessment.* On or before September 1 of each year, the city shall cause to be listed the total unpaid charges and administrative penalties for each type of order issued or work performed against each separate lot or parcel to which such charges are attributable pursuant to this section. The city may then assess such charges against the property benefited as a special assessment pursuant to the provisions of M.S.A. ch. 429 for certification to the county auditor and collection together with current taxes payable in the following year.

(Code 2015, § 9.77(11); Ord. of 3-26-2007; Ord. of 2-23-2009; Ord. No. R-2022-0912-9, § 9.77(11), 9-12-2022)

Sec. 11-13. Abatement—Class II nuisances.

Unless the nuisance is as described in section 11-14, the city may abate Class II nuisances by the procedure described below:

(1) *Notice.* In the event any condition that is defined as a Class II nuisance by this chapter is found to exist, the city may cause to be served upon the owner of the property upon which the condition exists, by registered or certified mail or by personal service, a notice ordering

such owner to remove the nuisance within ten days from the date of the notice and stating that, in the event the owner does not comply with such order, the necessary work may be performed or caused to be performed by the city at the expense of the owner, and that, if the owner does not pay for such expense, the cost of the work will be assessed against the property benefited.

a. The notice may also be posted on the property for a period of ten days, after which period the city may perform any necessary work.

b. The notice shall state that it is in effect for a period of 12 months from the date of the notice and if the nuisance condition reoccurs within that 12-month period the city shall abate the nuisance without further notification to the property owner.

(2) *Performance of work by city; invoice.* If the owner of any property fails to comply with the notice within the period allowed for compliance as stated in the notice, the city may cause to be performed such work as is ordered by such notice. The city shall prepare and maintain a record showing the cost of such work attributable to each separate lot and parcel and shall mail to the owner of each lot or parcel an invoice setting forth the changes for such work, which shall be immediately due and payable to the city. Invoices for charges for work completed pursuant to notices of violation under this section may be included with the city utility bill.

(3) *Assessment.* On or before September 1 of each year, the city shall cause to be listed the total unpaid charges and administrative penalties for each type of notice issued or work performed against each separate lot or parcel to which such charges are attributable pursuant to this section. The city may then assess such charges against the property benefited as a special assessment pursuant to the provisions of M.S.A. ch. 429 for certification to the county auditor and collection together with current taxes payable in the following year.

(Code 2015, § 9.77(12); Ord. of 3-26-2007; Ord. of 2-23-2009; Ord. No. R-2022-0912-9, § 9.77(12), 9-12-2022)

Sec. 11-14. Emergency abatement procedure.

When the enforcement officer determines that a nuisance exists which constitutes an immediate danger or hazard which, if not immediately abated, will endanger the health and safety of the public and there does not exist sufficient time to follow the procedures of sections 11-12 and 11-13, the city may abate the nuisance by the procedure described below:

(1) *Order.* The city shall order emergency abatement by an administrative order to be signed by a city inspector.

(2) *Notice of abatement.* Following an emergency abatement, a notice shall be mailed to the owner of the property and other responsible parties connected with the property that are known to the city. The notice shall contain:

a. A description of the nuisance;

b. The action taken by the city;

c. The reasons for immediate action; and

d. The costs incurred in abating the nuisance; and

e. A statement that the owner may request, by writing to the city clerk within five working days of the date of the notice, a hearing at which the city council shall review the actions taken by the enforcement officer.

(3) *Hearing procedure.*

a. *Setting date.* In the event that the owner files a request for review of the action with the city clerk, the city council shall, within two weeks, fix a date for a public hearing.

b. *Notice.* The city clerk shall notify the enforcement officer and the owner of the date, time, place, and subject of the hearing.

c. *Hearing.* At the time of the hearing, the city council shall hear from the enforcement officer and any other parties who wish to be heard. After the hearing, the city council may adopt a resolution levying an assessment for all or a portion of the costs incurred by the enforcement officer in abating the nuisance. A copy of the resolution shall be mailed to the owner. A copy shall also be given to the enforcement officer.

(Code 2015, § 9.77(13); Ord. of 3-26-2007; Ord. of 2-23-2009; Ord. No. R-2022-0912-9, § 9.77(13), 9-12-2022)

Secs. 11-15—11-31. Reserved.

ARTICLE II. SPECIFIC NUISANCES

DIVISION 1. GENERALLY

Sec. 11-32. Refuse storage.

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

Garbage includes every accumulation of animal, vegetable or other matter that attends the preparation, consumption, display, dealing in or storage of meat, fish, fowl, bird, fruit or vegetable, including any can, container or wrapper wasted along with or accompanying such material.

Refuse means all solid waste products or waste products having the character of solids rather than liquids in that such products will not flow readily without additional liquid and which products are composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial solid wastes or domestic solid wastes; organic wastes or residue of animals sold as meat, fruit or other vegetable or animal matter from kitchen, dining room, market, food establishment or any place dealing in or handling meat, fowl, fruit, grain or vegetables; offal, animal excreta or the

carcass of an animal; tree or shrub trimmings; grass clippings; brick, plaster or other waste matter resulting from the demolition, alteration or construction of any building or structure; or accumulated waste materials, cans, containers, tires, junk or other such substances.

Rubbish includes wood, leaves, trimmings from shrubs, dead trees or branches thereof, shavings, sawdust, excelsior, wooden ware, printed matter, paper, paperboard, pasteboard, grass cuttings, rags, straw, boots, shoes and all other combustibles not included under the term "garbage."

Swill includes that particular garbage which is wholly or nearly edible and usable as a food and has food value for animals or fowl, accumulated from animal, vegetable or other matter wasted from any club, hotel, hospital, restaurant or other public eating place.

Waste matter includes waste matter composed of soil, earth, sand, clay, gravel, loam, stone, brick, plaster, crockery, glass, glassware, ashes, cinders, shells, metal, and all other noncombustible material which has been or is to be discarded.

(b) *Owner to provide container.* The owner of any premises within the city upon which premises refuse, garbage, swill or waste matter is or may be present shall provide and maintain on such premises sufficient containers for the storage of all refuse, garbage, swill, or waste matter placed, accumulated or stored on such premises, which containers shall be, except as permitted in section 17-155, constructed of noncombustible material and have a noncombustible cover.

(c) *Prohibitions.*

(1) *Storage out of container.* It is unlawful for any person to place, retain or store, or for any person, as an owner or occupant having control of a premises within the city, to permit the placement, retention or storage, upon such premises, of any refuse, garbage, swill or waste matter, unless placed, retained or stored completely within a container as required by subsection (c)(2) of this section.

(2) *Storage in container.* It is unlawful for any person to place, retain or store, or for any person, as an owner or occupant having control of a premises within the city, to permit the retention, placement or storage, upon such premises, of any refuse, garbage, swill or waste matter placed, retained or stored completely within a container as required by this subsection for any period of time in excess of seven days.

(d) *Violations.* Any accumulation upon any premises within the city of any refuse, garbage, swill or waste matter not stored in a container as required by this section, or stored in such a container upon such premises for a period in excess of seven days, is a hazard to the public health and safety, a violation of this chapter, and a public nuisance which shall be abated according to the provisions of this chapter.
(Code 2015, § 9.13; Ord. of 2-23-2009)

Sec. 11-33. Unlawful deposit of garbage, litter, and similar items.

It is unlawful for any person to deposit garbage, rubbish, offal, the body of a dead animal, or other litter in or upon any public street, public or private lands, water or the ice thereon.
(Code 2015, § 9.15)

Sec. 11-34. Authority of city council to manage waste disposal and promulgate rules.

The council shall establish a sanitary landfill refuse area, or such other area or means of disposal as it, in its sole discretion, shall deem necessary to the proper maintenance of sanitary facilities. The council may prescribe, adopt and, from time to time, amend such rules and regulations as it shall deem necessary for the proper operation of such facilities and give notice thereof by any proper and adequate means. It is unlawful to violate such rules and regulations.
(Code 2015, § 9.16)

Sec. 11-35. Junked motor vehicles.

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

Junked motor vehicle means any motor vehicle, as defined in this section, which does not have lawfully affixed or attached thereto an unexpired state registration or license plate, or the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.

Motor vehicle means any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers.

Private property means any real property within the city which is privately owned and is not public property as defined in this section.

Public property means any street or highway and includes the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel and shall also mean any other publicly owned property or facility.

(b) *Storing or parking junked motor vehicles prohibited.* It is unlawful for any person to park, store or leave any junked motor vehicle, whether attended or not, upon any public or private property within the city, or for any person, as an owner of or an occupant having control of private property within the city, to permit the parking, storing or leaving of any junked motor vehicle upon such private property, unless such junked motor vehicle is within an enclosed building or structure lawfully situated upon private property or is so parked, stored or left upon private property lawfully zoned and operated as a junkyard.

(c) *Exceptions.* The presence of a junked motor vehicle upon private or public property within the city, except as permitted by the provisions of this section, is a hazard to the public health and safety, a violation of this chapter, and a public nuisance which shall be abated according to the provisions of this chapter.
(Code 2015, § 9.14; Ord. of 6-26-1978; Ord. of 10-27-2003; Ord. of 12-12-2005; Ord. of 2-23-2009)

Sec. 11-36. Graffiti.

(a) For the purposes of this section, the term "graffiti" means the unpermitted application of any drawing, inscription, figure or mark upon any structure, wall, rock, bridge, building, fence, gate, roadway, tree or other real or personal property, either privately or publicly owned.

(b) Failure to remove or cover graffiti within two business days (Monday through Friday, excluding legal holidays) of the discovery or notification of the presence of graffiti constitutes a public nuisance which shall be abated according to the provisions of this chapter.
(Code 2015, § 9.67; Ord. of 7-10-1995; Ord. of 2-23-2009)

Secs. 11-37—11-60. Reserved.

DIVISION 2. HEALTH NUISANCES

Sec. 11-61. Water.

The public water system, including treatment plants, wells, reservoirs, storage tanks, booster stations, distribution mains, and any other related appurtenances, shall be constructed, operated and maintained by department of public works, division of water and wastewater personnel or other officially designated representatives. The public potable water shall be sampled, maintained, and tested by division of water and wastewater personnel or other officially designated department of public works representatives. The potable water and related water supply appurtenances shall be operated and maintained in such a manner as to comply to all state department of health or Federal Environmental Protection Agency requirements and regulations.
(Code 2015, § 9.01; Ord. of 11-28-1988)

Sec. 11-62. Food, drugs, and beverages.

(a) The health officer or the public health sanitarian shall have the authority to inspect all premises engaged in the manufacture, processing, distribution, storage or sale of food, beverages, drugs, liquors, milk, ice, or any other products that are intended for human consumption, as well as the utensils, dishes, and containers used in the cleaning, preparation, serving or eating of any of the aforementioned products to ensure the purity and cleanliness of the same, the sanitation or cleanliness of the premises, personnel and facilities, and to recommend to the owner or proprietor such changes as he or she may deem necessary.

(b) The health officer or the public health sanitarian, with the advice and consent of the board of health, may take all necessary steps to abate any nuisance or unwholesome conditions, and the board shall recommend the revocation or refusal of any license for the premises operated or maintained in an unhealthful or unsanitary condition.
(Code 2015, § 9.02)

Sec. 11-63. Waste disposal.

(a) All liquid wastes (wastewater) shall conform to the requirements set forth in chapter 17, article III and shall be discharged into the city's public sanitary sewer system. Liquid wastes (wastewater) which do not conform to requirements set forth in chapter 17, article III shall not be discharged into the city's public sanitary sewer system nor shall they be discharged into the city's public stormwater sewer system. These liquid wastes shall be contained in approved containers or vessels and disposed of in such a manner prescribed by state regulations.

(b) All private facilities for the disposal of human excreta or liquid sewage shall be so constructed, maintained and operated so that there is:

(1) No access to this possible cause of sickness and source of filth by flies, rodents or other vectors of disease or by persons or domestic pets;

(2) No unlawful pollution of any stream or other body of water;

(3) Adequate isolation to protect wells or other sources of water supply from contamination; and

(4) Freedom from odor nuisance.

(c) Prior to removal, all garbage and refuse in storage shall be kept in watertight, nonabsorbent receptacles which are covered with close-fitting, fly-tight lids. All garbage, trash and refuse shall be removed from the premises frequently to prevent nuisance and unsightly conditions and shall be disposed of in a sanitary manner, as determined by the health officer or public health sanitarian or by other Code provisions. All garbage receptacles shall be kept clean and in good repair.
(Code 2015, § 9.03; Ord. of 11-28-1988)

Secs. 11-64—11-84. Reserved.

DIVISION 3. NOISE

Sec. 11-85. Definitions.

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

Measuring instrument means electronic equipment designed to be utilized to measure levels of sound and give a value to such levels in decibels (hereinafter referred to as "dB(A)") and such other supportive equipment, such as microphones, meters, or a portable power source.

Measuring site means a public street, highway or other public property which is to be utilized to measure the noise levels of motorized devices operating upon or over such street, highway or public property. In the case of a street or highway, the street or highway shall be paved with an asphalt or concrete surface which is substantially free of loose materials or standing water. All measuring sites shall be free from large reflective surfaces, such as signboards, buildings, solid fences, hillsides, or other parked vehicles, which would interfere with the accuracy of the measuring instrument.
(Code 2015, § 9.19(1); Ord. of 8-28-1972)

Sec. 11-86. Preparation of measuring site and measuring instruments.

(a) *Microphone.* The microphone used to measure noise shall be placed on a tripod or handheld at least four feet above the ground. It shall be located a minimum of 50 feet from and as nearly as possible at right angles with the path of moving vehicles and crafts and a minimum of 50 feet from and at right angles with the location of stationary vehicles, crafts, or engines.

(b) *Calibration.* The measuring instrument utilized shall be checked as to its accuracy before, during half-hour intervals, and after its use as a law enforcement device, by comparison of the reading obtained on such instrument when a known quality of sound in dB(A) is measured by the instrument.

(c) *Sound level reading.* The sound level reading for determining compliance with this section shall be the highest reading obtained as the vehicle, combination of vehicles, or craft passes through the measuring site or, in the case of a stationary vehicle, craft or engine, the highest reading obtained by the activation of the measuring instrument for three seconds.

(d) *Monitoring procedures.*

(1) Any employee of the city appointed by the city manager shall be trained in the use of such equipment.

(2) No measurement shall be made when the ambient noise levels, due to sources other than the vehicles, craft, or engine being monitored, including wind effects, is not at least ten dB(A) lower than the average level of vehicle, craft or engine noise being measured.

(3) No measurement shall be made when the wind velocity is greater than 12 miles per hour.

(4) All readings shall be taken on the weighted scale of (A).

(Code 2015, § 9.19(2); Ord. of 8-28-1972)

Sec. 11-87. Motor vehicles.

No person shall operate either a motor vehicle or combination of vehicles of a type subject to registration at any time or under any condition of grade, load, acceleration, or deceleration in such a manner as to exceed the following noise limits for the following category of motor vehicles within the speed limits supplied in this section:

	Speed Limit	
Vehicle Type and Weight	*Up to 35 mph*	*Over 35 mph*
Any motor vehicle with a gross vehicle rating of 6,000 pounds or more, any combination of vehicles towed by such motor vehicle, and any motorcycle	86 dB	90 dB
Any other motor vehicle and any combination of vehicles towed by such motor vehicle, and any motorcycle	82 dB	86 dB

(Code 2015, § 9.19(3); Ord. of 8-28-1972)

Sec. 11-88. Sport vehicles.

(a) *Snowmobiles.* Within the city limits, all snowmobiles shall be equipped with a muffler that limits engine noise to not more than 82 dB. Snowmobiles used solely for the purpose of competition shall not exceed 88 dB and may only be operated for testing and adjustment within the city limits for a period of 15 minutes in any one calendar day.

(b) *Go-carts.* Within the city limits, all go-carts must be equipped with a muffler of either the BOS type, expansion chamber, or tuned exhaust with sound levels not to exceed 86 dB.

(c) *Other rideable sports vehicles.* All other rideable sports vehicles shall not exceed 86 dB when operated within the city limits.
(Code 2015, § 9.19(4); Ord. of 8-28-1972)

Sec. 11-89. Hobby crafts, models and engines.

Within the city limits, the noise levels for any hobby craft or hobby craft engine shall not exceed 86 dB, and all engines of 0.20 cubic inches and larger shall be equipped with a muffler which reduces the noise by at least six dB. All radio-controlled models must have an FCC license for their transmitter and meet the above-specified noise levels.
(Code 2015, § 9.19(5); Ord. of 8-28-1972)

Sec. 11-90. Places of employment.

All employees who are subjected to noise levels of 90 dB and above for eight hours or more per day shall use ear quieting devices (i.e., ear plugs, muffs, etc.) if the noise is continual.
(Code 2015, § 9.19(6); Ord. of 8-28-1972)

Secs. 11-91—11-108. Reserved.

DIVISION 4. DISEASED TREES

Sec. 11-109. Purpose and intent.

The city council determines that the health of the elm and oak trees within the city limits is threatened by disease known as Dutch elm disease and oak wilt diseases. The city council further determines that the loss of elm and oak trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare and convenience of the public. It is the intention of the city council to control and prevent the spread of Dutch elm and oak wilt diseases, and the ordinance from which this division is derived is enacted for such purpose.
(Code 2015, § 9.73(1); Ord. of 3-28-1977; Ord. of 10-24-1977)

Sec. 11-110. Forester.

The city forester shall coordinate, under the control and direction of the city council, all activities of the city relating to the control and prevention of Dutch elm and oak wilt diseases. The powers and duties of the city forester as set forth in this section are also conferred upon the park superintendent or upon such other city official as may be designated by the city manager.
(Code 2015, § 9.73(2); Ord. of 3-28-1977; Ord. of 10-24-1977)

Sec. 11-111. Disease program.

It is the intention of the city council to conduct a program of plant pest and disease control pursuant to all the powers of the city, including the authority granted by M.S.A. §§ 18.75 through 18.91.
(Code 2015, § 9.73(3); Ord. of 3-28-1977; Ord. of 10-24-1977)

Sec. 11-112. Nuisance violations.

(a) *Trees constituting nuisances.* The following conditions are public nuisances when found or located within the city:

(1) Any living or standing tree, or part thereof, infected to any degree with the Dutch elm disease caused by *Ceratocystis ulmi* or oak wilt disease caused by *Ceratocystis fagacearum.*

(2) Any dead elm or oak tree, or any part thereof, including logs, branches, stumps, firewood or other elm or oak material from which the bark has not been removed or burned.

(b) *Prohibition.* It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises owned or controlled by such person. Any such public nuisance may be abated by the city in the manner set forth in this division.
(Code 2015, § 9.73(4); Ord. of 3-28-1977; Ord. of 10-24-1977)

Sec. 11-113. Inspection and investigation.

(a) *Inspections.* As often as practicable, the forester shall inspect public and private premises within the city, which premises may harbor any noxious weed or invasive plant as defined in M.S.A. § 18.77, to determine whether any condition described in section 11-112 exists thereon. The forester shall investigate reported incidents of infestation of Dutch elm or oak wilt disease.

(b) *Entry on private premises.* The forester or any agent of the forester may enter upon private premises at any reasonable time for the purpose of executing any of the duties assigned to the forester by this section.

(c) *Diagnosis.* The forester shall, upon finding conditions indicating Dutch elm or oak wilt infestation, complete such actions for diagnosis as may be recommended by the state commissioner of agriculture.
(Code 2015, § 9.73(5); Ord. of 3-28-1977; Ord. of 10-24-1977)

Sec. 11-114. Abatement of disease nuisance.

In abating a nuisance as defined in this division, the city forester shall cause the infested tree or wood to be removed or burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch elm and oak wilt disease. Such abatement shall be performed in accordance with such applicable technical methods and plans, if any, as may be designated by the state commissioner of agriculture.
(Code 2015, § 9.73(6); Ord. of 3-28-1977; Ord. of 10-24-1977)

Sec. 11-115. Abatement of disease nuisance on private property.

(a) *Notice.* Whenever the city forester finds with reasonable certainty that the infestation described in section 11-112 exists in any tree or wood located on private property, the forester shall notify, by personal service or by certified mail, the owner of the property on which the nuisance has been found of such infestation. Such notice shall direct that the infestation be removed and burned within the time period specified in subsection (b) of this section and shall state that, in the event the

infestation is not removed and burned by the owner within the time provided, the owner may be charged with a violation of section 11-112, and that the city will abate the nuisance and assess the cost of such abatement against the benefited property.

(b) *Removal periods.*

(1) *High-risk elm tree.* For the purpose of this section, a high-risk elm tree shall be defined as an elm tree which has been infested as described in section 11-112 and is either dead or at least 30 percent wilted. Each high-risk elm tree shall be clearly identified and marked by the forester as a high-risk tree and shall be removed within 20 days of the receipt of the notice served pursuant to the provisions of this section.

(2) *Low-risk elm trees.* For the purpose of this section, a low-risk elm tree shall be defined as an elm tree which has been infested as described in section 11-112 and shows early stages of infestation which have resulted in less than 30 percent wilting of such tree. Each low-risk tree shall be clearly identified and marked by the forester as a low-risk tree and shall be removed no later than April 1 following the receipt of the notice served pursuant to the provisions of this section.

(3) *Oak trees.* Oak trees infested as described in section 11-112 shall be removed within 20 days of the receipt of the notice served pursuant to the provisions of this section.

(c) *Abatement by the city.* In the event the owner of any private property upon which a nuisance, as defined in section 11-112, is situated fails to abate such nuisance as provided herein within the required time after receipt of the notice required by this section, the forester shall abate such nuisance.

(d) *Record of abatements.* The forester shall maintain a record of the cost of each abatement performed pursuant to the provisions of this section and shall submit to the city clerk, or other officer designated by the city manager, a monthly report stating and certifying the cost of each such abatement and the legal description of the tract or parcel upon which such signature was abated.

(e) *Assessment.* On or before September 1 of each year, the city clerk or other officer designated by the city manager shall list the unpaid charge for each abatement performed pursuant to the provisions of this section, which list shall set forth the separate tract or parcel to which each such unpaid charge is attributable. The city council may then assess any such change or any portion thereof against the property on which the nuisance was abated as a special assessment pursuant to the provisions of M.S.A. § 429.101 and other pertinent statutes relative to the collection of special assessments. The city council may provide that any such assessment is payable with interest in installments, the number of which installments shall not exceed the number of installments permitted by M.S.A. § 451.15.

(Code 2015, § 9.73(7); Ord. of 3-28-1977; Ord. of 10-24-1977; Ord. of 8-13-1979)

Sec. 11-116. Interference prohibited.

It is unlawful for any person to prevent, delay or interfere with the forester while engaged in the performance of duties imposed by this division.

(Code 2015, § 9.73(8); Ord. of 3-28-1977; Ord. of 10-24-1977)

Chapter 12

OFFENSES

Article I. In General

Sec. 12-1. Ordinance violations bureau.
Secs. 12-2—12-20. Reserved.

Article II. Offenses Against Peace and Order

Sec. 12-21. Public transit regulations.
Sec. 12-22. Disruptive intoxication.
Sec. 12-23. Social host liability.
Sec. 12-24. Disorderly house or place of public resort.
Sec. 12-25. Open containers of alcoholic beverages.
Sec. 12-26. Curfew.

ARTICLE I. IN GENERAL

Sec. 12-1. Ordinance violations bureau.

(a) *Establishment.* Pursuant to the authority granted in M.S.A. ch. 493, the court is authorized to establish an ordinance violations bureau to assist the court in disposing of violations of ordinances relating to building construction, operation or maintenance, fire and fire prevention, public health and sanitation, and zoning.

(b) *Head of bureau.* The court is authorized to designate the head of the bureau and provide for other bureau personnel.

(c) *Facilities.* Suitable facilities and space shall be provided in the county courthouse, or such other facility as may be designated by agreement between the court and the city.

(d) *Records.* The ordinance violations bureau shall keep a record of all cases of violation brought before it, including their final disposition, and also a record of all fines collected and the disposition thereof. Fines and other monies collected by the bureau shall be disposed of in the same manner as if guilt had been determined in court.

(e) *Issuance of citations.* The fire supervisor, health sanitarian, building inspector, plumbing inspector, zoning administrator, police officers, city inspectors, and all persons appointed as acting inspectors of the city are empowered to serve a citation upon persons charged with violations or to post a notice of violation at the place of violation, but this power is confined to violations of ordinances described in subsection (a) of this section. The inspectors are not authorized to arrest or otherwise take a violator into custody.

(f) *Contents of citations.* As used in this section, the term "citation" means a written or printed notice served upon the person charged with a violation of the ordinances described in subsection (a) of this section. Such citation shall be in a form approved by the county court and shall contain the following:

(1) The name of the person creating the violation or the owner or person in charge of the premises at which the violation occurs;

(2) The date and place of violation;

(3) A short description of the violation followed by the number and section of this Code violated;

(4) The date and place at which the cited person shall appear and a notice that if the person cited does not respond to the citation a warrant may be issued for such person's arrest; and

(5) Such other information as the court may specify.

(g) *Disposal of violations.* Violations within the jurisdiction of the ordinance violations bureau shall be disposed of as provided in M.S.A. § 169.999.

(h) *Prior enactments.* The provisions of this section shall supersede all prior enactments relating to ordinance violations bureaus.
(Code 2015, § 9.001)

Secs. 12-2—12-20. Reserved.

ARTICLE II. OFFENSES AGAINST PEACE AND ORDER

Sec. 12-21. Public transit regulations.

(a) *Prohibitions.* It shall be unlawful for any person while aboard a public passenger vehicle owned and operated by the city, to do any of the following acts while such public passenger vehicle is transporting passengers within the urbanized area:

(1) Use any tobacco product or any smoking or vaping product or device;

(2) Consume food or drink from an open container in or upon any such public passenger vehicle;

(3) Spit in or upon any such public passenger vehicle;

(4) Discard, throw or place any litter or trash in or upon any public passenger vehicle;

(5) Cause or permit to be operated any electronic devices, except where such device is connected to an earphone which limits the sound emitted therefrom to the individual user;

(6) Carry, possess, or allow to be kept any flammable or combustible liquids, explosives, acids, or any item inherently dangerous or offensive;

(7) Carry, possess, or allow to be kept any live animal, provided that this prohibition shall not apply to animals kept in a carrier or service animals which must be on a leash, harness, or other tether, unless such is not possible due to a disability, in which case the service animal must be otherwise under the handler's control;

(8) Stand in front of any white line marked on the forward end of the floor of any such passenger vehicle, or otherwise obstruct the vision of the operator thereof; or

(9) Board any such passenger vehicle through any rear exit door, unless so directed or authorized by an employee or agent of the city.

(b) *Refuse service.* The city, or any authorized employee or agent may refuse to transport any person whose observed conduct or behavior constitutes a violation of this section.
(Code 2015, § 9.47; Ord. of 1-26-1976)

Sec. 12-22. Disruptive intoxication.

(a) *Declaration of policy.* It is the policy of the city to provide for the safety, health, and welfare of the public while prohibiting certain harmful conduct of intoxicated persons.

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

Intoxicated person means a person who is presently impaired, mentally or emotionally, as a result of the presence of alcohol, drugs, a controlled substance in the person's body or a combination thereof. Evidence of an intoxicated person may include, but is not limited to, any combination of the following indicators:

(1) Odor of intoxicants on the breath;

(2) Bloodshot, watery eyes;

(3) Dilated pupils;

(4) Stumbling or staggering;

(5) Slurred speech:

(6) Failure of standardized field sobriety tests;

(7) Failure of drug recognition protocol;

(8) Alcohol concentration of 0.08 or more;

(9) Unconsciousness.

Public disruption means conduct by an individual to include loud, boisterous yelling, urinating in public, lewd or combative conduct, disobeying a police officer's lawful command or interfering with the flow of pedestrian or vehicular traffic.

Public place includes a building or place controlled by the city, a school, or a place of worship, any public street, including public sidewalk, alley, walk or other publicly owned lands. The term "public place" shall include privately owned parking lots that are open to the public by invitation or custom, such as businesses and apartment complexes. The term "public place" excludes the premises of a licensed alcohol establishment.

(c) *Dangerous or disruptive behavior.* No person, while intoxicated, in a public place shall conduct himself or herself so as to be a danger to themselves or others or engage in public disruption.

(d) *Sobriety testing.* No person shall be cited under this section without first having been offered and failed the standardized field sobriety test or a portable breath test (PBT); however, a person incapable and or having refused field sobriety testing or a PBT may be cited under the criteria set forth in subsection (b) of this section.
(Code 2015, § 9.48; Ord. of 3-28-2011)

Sec. 12-23. Social host liability.

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

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source by whatever process produced.

Alcoholic beverage means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

Event or *gathering* means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

Host means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

Parent means any person having legal custody of a juvenile:

(1) As natural, adoptive parent, or step-parent;

(2) As legal guardian; or

(3) As a person to whom legal custody has been given by order of the court.

Residence or *premises* means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

Underage person means any individual under 21 years of age.

(b) *Prohibited acts.*

(1) It is unlawful for any person to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows, or reasonably should know, that an underage person will or does consume any alcohol or alcoholic beverage or possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person.

(2) A person is criminally responsible for violating subsection (b)(1) of this section if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(3) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

(c) *Exceptions.*

(1) This section does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(2) This section does not apply to legally protected religious observances.

(3) This section does not apply to retail intoxicating liquor or 3.2 percent malt liquor licenses, municipal liquor stores, or bottle club permit holders who are regulated by M.S.A. § 340A.503, subd. 1(a)(1).

(Code 2015, § 9.70; Ord. of 11-13-2007)

Sec. 12-24. Disorderly house or place of public resort.

It is unlawful for any person to:

(1) Keep a disorderly house or place of public resort, whereby the peace, comfort or decency of a neighborhood is habitually disturbed; or

(2) Being the owner or in control of any premises, intentionally permit them to be so used.

(Code 2015, § 9.72)

Sec. 12-25. Open containers of alcoholic beverages.

(a) For the purposes of this section, the term "alcoholic beverage" means any spirits, wine, beer, or ale or other liquid containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes or intended for human consumption as a beverage. The term "alcoholic beverage" shall not include prescription medication or other liquids containing alcohol designed for use as a medicine.

(b) It shall be unlawful to consume alcoholic beverages or to possess any open container which contains an alcoholic beverage on the public pedestrian malls in the central business district of the city, as that area is defined in the city's zoning regulations.

(c) It shall be unlawful to consume alcoholic beverages or to possess any open container which contains an alcoholic beverage on any public street, highway or roadway.

(d) It shall be unlawful to consume alcoholic beverages or to possess any open container which contains an alcoholic beverage in any parking lot generally held open for use by the public, whether the use by the public is by right, custom or invitation, such as, without limitation by way of enumeration, shopping center parking lots, parking lots for: stores, factories, warehouses, schools, parks, playgrounds, restaurants and places of entertainment. This prohibition shall not apply to a parking lot adjacent to a residential dwelling and operated for the exclusive use of residents of a residential dwelling and their guests. In the case of a city park, it shall not be unlawful to consume alcoholic beverages or to possess an open container which contains an alcoholic beverage unless the park has been posted pursuant to city council resolution prohibiting the consumption or possession of alcoholic beverages in that park.

(e) The possession of open containers and the consumption of alcoholic beverages while in a street shall not be unlawful if pursuant to a permit to occupy the street or city park parking lot issued by the city and such consumption or possession occurs during the hours and in the location specified in the permit and while such street or city park parking lot is closed to vehicular traffic by city barricades.
(Code 2015, § 9.74; Ord. of 9-12-1988)

Sec. 12-26. Curfew.

(a) *Minors under the age of 16 years.* It is unlawful for any minor person under the age of 16 years to be or loiter upon the streets or public places between the hours of 10:30 p.m. and 5:00 a.m.

(b) *Parents and guardians having legal custody.* It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor person to allow or permit such minor person to be or loiter upon the streets or public places in violation of this section unless such minor is accompanied by a person of lawful age having such minor person in charge, and unless the police department has notified the parents or guardian in writing or in person of a prior violation of this section.

(c) *Places of amusement, entertainment or refreshment.* It is unlawful for any person operating, or in charge of, any place of amusement, entertainment or refreshment, or other place of business, to allow or permit any minor person to be or loiter in such place in violation of this section, unless such minor is accompanied by a person of lawful age having such minor person in charge. This subsection shall not be construed to permit the presence, at any time, of any person underage in any place where his presence is otherwise prohibited by law.

(d) *Exception.* Such curfew shall not apply to any students under the age of 16 years who are lawfully attending, going to or returning from school, church or community sponsored athletic, musical or social activities or event.
(Code 2015, § 9.62)

Chapter 13

PARKS AND RECREATION

Article I. In General

Sec. 13-1. Purpose; applicability; construction.
Sec. 13-2. Definitions.
Sec. 13-3. Penalties.
Sec. 13-4. Authority of director.
Sec. 13-5. City manager may promulgate rules and regulations.
Sec. 13-6. Prohibited conduct generally.
Sec. 13-7. Vehicle use restricted.
Sec. 13-8. Weapons.
Sec. 13-9. Fires.
Sec. 13-10. Alcoholic beverages.
Sec. 13-11. Use of bike trails restricted.
Sec. 13-12. Camping and activity prohibitions.
Sec. 13-13. Camping rules for Land of Memories Park.
Sec. 13-14. Closing hours.
Sec. 13-15. Ejectment.
Secs. 13-16—13-33. Reserved.

Article II. Special Events

Sec. 13-34. Park classification.
Sec. 13-35. Permits.
Sec. 13-36. Fees; surety bonds.
Sec. 13-37. Large group gatherings.
Sec. 13-38. Amplified music.

ARTICLE I. IN GENERAL

Sec. 13-1. Purpose; applicability; construction.

(a) The purpose of this chapter is to provide rules and regulations for the use of and conduct in the parks and recreation areas of the city. This chapter shall apply in all city parks and recreation areas, unless expressly exempted. In the interpretation of this and all succeeding park and recreation area ordinances, the provisions shall be construed such that any requirement or prohibitions of any act shall respectively extend to and include the causing and procuring, directly or indirectly, of such act.

(b) No provisions hereof shall make unlawful any act necessarily performed by any officer or employee of the city in line of duty or work as such, or by any person, his agent or employees, in the proper and necessary execution of the terms of any agreement with the city.
(Code 2015, § 14.01; Ord. of 4-27-1982)

Sec. 13-2. Definitions.

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

Animals means cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, and all other animals and feathered fowl except dogs and cats, unless such pets are specifically included in particular subdivisions hereof, and this definition shall extend to this section only.

Applicant means any person or organization seeking a permit to use or conduct an activity in a park or recreational area.

Careless operation means to operate a vehicle or bicycle, rollerblades or skateboards heedlessly in disregard to the safety of the operator or others.

Director means the city director of public works or his or her designee.

Intoxicating beverage means ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages, including:

(1) Beer, which means any malt liquor containing not more than seven percent alcohol by weight; and

(2) Wine, which means a fermented beverage not exceeding 14 percent alcohol by volume.

Organized sports means the playing of games or practice by athletic teams.

Park means a park, reservation, playground, beach, recreation center or any other area in the city owned or used by the city and devoted to active or passive recreation.

Permit means any written license issued by or under the authority of the director or city council permitting a use, event, or activity in the park system.

Vehicle means any wheeled conveyance, whether motor-powered, animal-drawn, or self-propelled. The term "vehicle" shall include any trailer in tow of any size, kind or description but does not include wheelchairs, baby carriages and vehicles in the service of the city parks.
(Code 2015, § 14.02; Ord. of 4-27-1981; Ord. of 4-14-2008)

Sec. 13-3. Penalties.

Violation of any of the sections of this chapter shall constitute a misdemeanor.
(Code 2015, § 14.17; Ord. of 4-27-1981)

Sec. 13-4. Authority of director.

The director shall have the authority to close areas of the parks to the public for construction work in the park, to prevent access to dangerous areas, protect seedlings and plantings, and for maintenance purposes. The director is authorized to designate, by posting, areas in which activities in section 13-12(2) through (4) are prohibited.
(Code 2015, § 14.18; Ord. of 4-27-1981)

Sec. 13-5. City manager may promulgate rules and regulations.

The city manager or designee may promulgate rules and regulations governing and restricting the operation or activities allowed in any of the city parks or recreation areas; thereof for the benefit of park resources and the general public.
(Code 2015, § 14.20; Ord. of 4-14-2008)

Sec. 13-6. Prohibited conduct generally.

(a) It is unlawful for any person in a public park or recreation area to:

(1) Mark, deface, disfigure, harm, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, pavings or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(3) Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon, or access such lands, except on special written permit issued hereunder.

(4) Damage, cut, carve, mark, transplant or remove any plant, or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area.

(5) Climb any tree or walk, climb, stand or sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for such purpose.

(6) Attach any rope or cable or other contrivance to any tree, fence, railing, bridge, bench, or other structure, except that nets used for sports activities may be tied to trees or poles, other items may be attached to designated trees and structures with the written permission of the director.

(7) Throw, discharge, or otherwise place or cause to be placed in the waters of any fountains, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters.

(8) Take into, carry through, or put into any park, any rubbish, refuse, garbage or other materials. Such refuse and rubbish shall be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(9) Bring or possess any glass beverage container into any park or recreation area.

(10) Cause or permit to run loose any animal except when otherwise specifically permitted by the city.

(11) Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw objects at any animal, wildlife, reptile or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird. Exception to the foregoing is made in that snakes known to be venomous may be killed on sight.

(12) Bring or have a horse in the parks, except in connection with a written permit therefor from the director.

(13) Bring or have a dog, cat, ferret, raccoon, skunk, snake or bird of prey in the parks except when otherwise specifically permitted by this Code or in connection with a written permit therefor from the director; provided, however, this prohibition shall not apply to a disabled person accompanied by a service animal or animals kept by the city in its zoo.

(14) Offer items for sale, barter, or donation in any park unless pursuant to a permit.

(b) Dogs will be permitted in the following city parks, provided that the dogs are under the control of a person by leash, cord or chain or not more than ten feet in length and in the event any dog discharges or deposits any feces or other waste matter in the park, the person in control of such dog shall immediately remove and lawfully dispose of such matter:

(1) Neighborhood parks: Erlandson Park, Highland Park, Lions Park and Busher Park.

(2) Community parks: Land of Memories (West Sibley) Park-Kiwanis Recreation Area.

(3) Special use park areas: Premier Pond.

(4) Natural resource areas: Rasmussen Woods.

(c) Nothing herein shall prohibit operation of concession stands by the city, its designees or concessionaires. Permits hereunder shall be granted only in connection with organized sports activities or large group gatherings.

(Code 2015, § 14.03; Ord. of 4-27-1981; Ord. of 8-9-1982; Ord. of 8-25-2003; Ord. of 4-14-2008)

Sec. 13-7. Vehicle use restricted.

It is unlawful for any person in a public park or recreation area to:

(1) Drive any vehicle on any area except the paved park roads or parking areas, or such areas as may on occasion be specifically designated as temporary areas.

(2) Park a vehicle anywhere except on a designated parking area.

(3) Leave a vehicle standing or parked in established parking areas or elsewhere in the park and recreation areas during hours when the park and recreation area is closed with the exception of the Park and Ride lot at Kiwanis Recreation Area and by fishing permit in Sibley, Land of Memories, Kiwanis Park and Riverfront Park.

(4) Leave a bicycle in a place other than a bicycle rack when such is provided and there is space available.

(5) Ride a bicycle in a careless manner.

(6) Leave a bicycle lying on the ground or paving, or in any place or position where other persons may trip over or be injured by it.

(7) Wash, wax, or paint any vehicle.

(8) Use any park areas, including parking places, for the repairing or cleaning of any vehicle, except in an emergency.

(9) Cause or permit a vehicle in tow of another vehicle to enter the parks or proceed therein, except, in case of a breakdown, a disabled vehicle may be towed to the nearest exit; or operate or drive a vehicle containing any person or object projecting or hanging outside of or beyond the side of the rear thereof, except that boat, canoe and camping trailers shall be allowed in Sibley Park, Land of Memories, Kiwanis Park and Riverfront Park and may be parked in the areas designated by the director. Nothing herein shall prevent the director from allowing the use of trailers in connection with an activity for which a permit has been granted.

(10) Operate, park or bring in a snowmobile or all-terrain vehicle.

(11) Cause or allow a vehicle's tires to make a squealing noise upon acceleration or operation of the vehicle.

(12) As driver or operator of a motor vehicle or as the registered owner of a motor vehicle, park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any such motor vehicle at Highland Park in any given place in the Highland Park parking lots for a period in excess of two hours between the hours of 8:00 a.m. and 5:00 p.m. weekdays during the period of September 1 through May 31 of each year.

(Code 2015, § 14.04; Ord. of 10-14-1985; Ord. of 4-14-2008)

Sec. 13-8. Weapons.

Unless otherwise provided by state law, it is unlawful for any person to bring into or have in his possession in any park or recreation area:

(1) Any pistol or revolver or object upon which loaded or blank cartridges may be used; provided, however, that official starters, at authorized track and field events, are exempt from this restriction as well as blanks in the dog training area in Kiwanis Park.

(2) Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow, or other weapon in which the propelling force is gunpowder, a spring or air, except that a bow may be used and possessed in designated archery ranges.

(Code 2015, § 14.05; Ord. of 4-27-1981; Ord. of 4-14-2008)

Sec. 13-9. Fires.

No person shall kindle, build, maintain or use a fire except in places provided for such purposes or portable fire pits. Any fire shall be continuously under the care and direction of a competent person from the time it is kindled until it is extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle, or under any tree or in underbrush.

(Code 2015, § 14.06; Ord. of 4-27-1981; Ord. of 4-14-2008)

Sec. 13-10. Alcoholic beverages.

(a) It is unlawful to possess or consume any intoxicating beverages, other than beer, wine or beverages containing more than seven percent alcohol by weight, in any park or recreation area, except that no intoxicating beverage, including beer, may be possessed or consumed in Class V and VI parks, unless prior written approval is obtained from the city manager or designee in accordance with section 13-35.

(b) It is unlawful to possess beer in containers larger than one liter in any park or recreation area, except that containers larger than one liter may be possessed in accordance with a permit therefor in Class IV parks.

(Code 2015, § 14.07; Ord. of 4-27-1981; Ord. of 5-28-2002; Ord. of 4-14-2008)

Sec. 13-11. Use of bike trails restricted.

(a) As used in this section, the term "bike trail" means the right-of-way for a recreational trail as such right-of-way is depicted on the city's bike trail map prepared by the city engineer, a copy of which shall be filed with the city clerk and serve as the official bike trail map as amended from time to time.

(b) It is unlawful for any person on a bike trail right-of-way to:

(1) Mark, deface, disfigure, harm, tamper with or displace or remove any buildings, bridges, tables, benches, railings, pavings or paving materials, water lines or other public utilities or

parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or city property or appurtenances whatsoever, either real or personal.

(2) Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means of agency.

(3) Damage, cut, carve, mark, transplant or remove any plant, or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area.

(4) Attach any rope or cable or other contrivance to any tree, fence, railing, bridge, bench, or other structure.

(5) Bring or possess any glass beverage container.

(6) Cause or permit to run loose any animal.

(7) Bring or have a horse, donkey, mule or pony in the bike trail.

(8) Offer items for sale, barter, or donation on any bike trail.

(9) Operate, park or have a motorized vehicle on the bike trail right-of-way.

(10) Ride a bicycle or tricycle in a careless manner.

(11) Bring or have in his or her possession any revolver, pistol, rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow, or other weapon in which the propelling force is gunpowder, a spring or air. This prohibition shall not apply to licensed peace officers.

(12) Kindle, build, maintain or use a fire.

(13) Possess or consume any intoxicating beverages, other than beer.

(14) Possess beer in containers larger than one liter.

(15) Camp, pitch a tent or stay overnight.

(c) The prohibitions in subsections (b)(1) through (4), (9), and (12) of this section shall not apply to maintenance, repair, construction and emergency activities performed by the city or its contractors.

(Code 2015, § 6.17; Ord. of 9-23-1985)

Sec. 13-12. Camping and activity prohibitions.

It is unlawful for any person in a park or recreation area to:

(1) Camp or stay overnight anywhere except with a permit in areas designated for camping or staying overnight in vehicles or trailers.

(2) Take part in the playing of any games involving thrown or otherwise propelled objects in those areas where such conduct is prohibited.

(3) Play football, baseball, basketball, soccer or lacrosse, where such conduct is prohibited.

(4) Roller skate or use skateboards in those areas posted by the city prohibiting roller skates or skateboards.

(5) Enter an area posted as "closed to the public."

(6) Engage in threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace.

(7) Fail to produce and exhibit any permit he claims to have, upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

(8) Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.

(9) Erect or occupy any tent, stand or other structure in any park or playground, or sell or give away from any such tent or other structure any food, drink or other thing, without a permit.

(Code 2015, § 14.08; Ord. of 4-27-1981; Ord. of 4-14-2008)

Sec. 13-13. Camping rules for Land of Memories Park.

The director shall promulgate rules and regulations annually governing camping at Land of Memories Park. These rules and regulations shall become effective upon their adoption, by resolution of the council. The rules and regulations shall address reservations, fees, designation of areas, use of facilities and equipment, use of fires, stoves, parking of vehicles, limitation on size of campers and such other matters as are deemed appropriate by the director for submission to the council. The bringing of camper trailers into Land of Memories Park shall be permitted, and section 13-7 shall not apply to such activity.

(Code 2015, § 14.19; Ord. of 4-27-1981)

Sec. 13-14. Closing hours.

(a) Except in designated camping areas, no person shall enter, remain in or be in any park or recreation area during the hours the park or recreation area is closed.

(b) All parks shall be closed between the hours of 10:30 p.m. and 6:30 a.m., except that during the period May 1 through October 20, Jaycee, Franklin Rogers, and Thomas Parks shall be closed between the hours of 12:00 midnight and 8:00 a.m. At Hiniker Pond and Kiwanis Recreation Area, closing is sunset.

(Code 2015, § 14.09; Ord. of 4-27-1981; Ord. of 2-25-1985, § 1; Ord. of 4-14-2008)

Sec. 13-15. Ejectment.

The director, any parks and forestry division employee and police officer shall eject from the park or recreation area any person whose conduct is in violation of this Code or state law.

(Code 2015, § 14.11; Ord. of 4-27-1981)

Secs. 13-16—13-33. Reserved.

ARTICLE II. SPECIAL EVENTS

Sec. 13-34. Park classification.

(a) Park and recreation areas within the city shall be placed in the following classes:

(1) Class I general use parks suitable for individuals and small groups, unsuitable for reserved use or the sale of beer or other items, unsuitable for organized sports.

(2) Class II, general use parks suitable for all uses allowable in Class I, suitable for medium sized groups and reserved picnics, unsuitable for organized sports and amplified music.

(3) Class III, parks suitable for organized sports and activities allowable in Class I and II parks, unsuitable for amplified music.

(4) Class IV, parks suitable for organized sports, large gatherings, sale of beer, amplified music and reserved use.

(5) Class V, nature areas suitable only for hiking and individual picnics.

(6) Class VI, historical sites suitable only for pedestrian use, unsuitable for picnics and other general park uses except by permit.

(7) Class VII, corridors/trails that preserve linear natural resources and provide connections for use by pedestrians and nonmotorized modes of transportation.

(b) The city parks are classified per the parks and open space plan.

(Code 2015, § 14.12; Ord. of 4-27-1981; Ord. of 2-25-1983, § 2; Ord. of 7-11-1983; Ord. of 12-23-1985; Ord. of 5-9-1988; Ord. of 5-28-2002; Ord. of 4-14-2008)

Sec. 13-35. Permits.

Permits for special events and uses in parks and recreation areas shall be obtained by application to the city in accordance with the following procedure:

(1) *Application.* A person seeking issuance of a permit hereunder shall file a written application on a form supplied by the city.

(2) *Issuance.* Standards for issuance of a use permit shall include the following findings:

a. That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park.

b. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

c. That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.

d. That the proposed activity will not entail extraordinary or burdensome expense or police operation by the city.

e. That the facilities desired have not been reserved for other use on the date and hour requested in the application and are available for the requested use and activity.

f. That the proposed activity and use are suitable for the class of the park.

(3) *Appeal.*

a. Within ten days after the receipt of an application, the director shall inform the applicant in writing of his decision to grant or deny a permit; in the event of a denial, the notification shall include the reason for the denial. Any aggrieved person shall have the right to appeal to the city council by serving written notice thereof on the city clerk within five working days of the refusal.

b. The city council shall decide within 30 days after the appeal whether to affirm, reverse, or modify the director's decision.

(4) *Insurance.* For gatherings of more than 200 persons, the applicant shall be required to carry and maintain public liability insurance, with the city as a named insured, providing insurance coverage for bodily injury, death and property damage occurring in connection with applicant's use of park or recreational facilities and land. Such insurance shall provide coverage in amounts at least equal to the city's maximum liability limits as provided by statute.

(5) *Revocation.* The director or their designee is authorized to revoke a permit immediately upon a finding of a violation of any park rule, ordinance or permit condition.

(6) *Liability.* The applicant shall be liable for any loss, damage or injury sustained by virtue of the activity conducted pursuant to the permit.

(7) *Portable toilets.* For gatherings of more than 100 persons or where beer is sold or distributed in connection with the activity, the director, as a condition of any permit issued, may require the applicant to supply such self-contained portable toilet facilities as the director deems appropriate.

(Code 2015, § 14.10; Ord. of 4-27-1981; Ord. of 4-14-2008)

Sec. 13-36. Fees; surety bonds.

(a) *Generally.* Fees shall be established by council resolution and provided in the city fee schedule. Any changes to fees need council approval. The applicant may post a surety bond, acceptable to the director, in lieu of a cash deposit.

(b) *Beer/wine.* The permit fee for events at which amplified music is allowed or beer is sold or distributed shall be as provided in the city fee schedule, and the applicant shall pay a deposit of $600.00. The applicant may submit a surety bond, acceptable to the director, in lieu of posting a cash deposit.

(c) *Nonprofit.* Permits shall not be issued for uses and activities which shall charge an admission, request a donation, or offer items for sale unless the applicant is an organization which is a charitable, religious or nonprofit corporation and such applicant is the sponsor of such use and activity.

(Code 2015, § 14.13; Ord. of 4-27-1981; Ord. of 4-14-2008)

Sec. 13-37. Large group gatherings.

(a) The term "large group gathering" means uses and activities which, during the course of their operation, are likely to attract 200 or more people.

(b) Large group gatherings and events where amplified music or beer is sold shall be held only in Class IV parks.

(c) No more than two permits within any 30-consecutive-day period shall be issued each for Sibley and Land of Memories parks.

(d) Applications for events under subsection (a) of this section shall be accepted during the first two weeks in November for the year commencing that next January, and a drawing shall be held in the event more than two applicants are received for any one given park for a particular month. The first two events drawn shall be issued permits. Thereafter, for that calendar year, permits shall be granted on a first-come, first-served basis as facilities are available.

(e) Permits for large group gatherings may be for up to three consecutive days.
(Code 2015, § 14.14; Ord. of 4-27-1981)

Sec. 13-38. Amplified music.

(a) *Generally.* Electronic devices may not be used in the parks except in connection with earphones which prevent persons other than the persons using the earphones from hearing the audio.

(b) *Amplified sound.* It is unlawful to operate any loudspeaker or amplifier or other device by which sounds are magnified and may be heard by persons other than a person using earphones or a hearing aid device without having first secured a permit therefor. Permits for amplified sound shall be issued only for Class IV parks in connection with large group gatherings. Nothing herein shall prohibit the city from using amplified sound in connection with city operations or programs.

(c) *Generators.* It is unlawful to use, possess or bring into a park a portable electric generating unit without having secured the prior written permit therefor from the director. In any event, any person having a permit for amplified sound shall be required to use electricity from a source supplied by the city and may not use portable electric generating equipment.
(Code 2015, § 14.16; Ord. of 4-27-1981; Ord. of 4-14-2008)

Chapter 14

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Article I. In General

Sec. 14-1. Definitions.
Sec. 14-2. Ice and snow on public sidewalks.
Sec. 14-3. Private use of public streets and parking lots.
Sec. 14-4. Sidewalk painting.
Sec. 14-5. Vehicular access.
Sec. 14-6. Private use of poles.
Sec. 14-7. Obstructions in the public right-of-way.
Sec. 14-8. Construction of roadway, sidewalk and curb.
Sec. 14-9. Sidewalk, bicycle and trail systems established.
Sec. 14-10. Curb setback.
Sec. 14-11. Sewer and water lateral installation.
Sec. 14-12. Vacation of streets.
Secs. 14-13—14-42. Reserved.

Article II. Right-of-Way Management

Division 1. Generally

Sec. 14-43. Findings and purpose.
Sec. 14-44. Definitions.
Sec. 14-45. Fees.
Sec. 14-46. Registration.
Sec. 14-47. Permit required; bond; exceptions.
Sec. 14-48. Diligence in performing work.
Sec. 14-49. Standards during construction or installation.
Sec. 14-50. Standards for wireless telecommunications facilities.
Sec. 14-51. Repair and restoration.
Sec. 14-52. Permit limitations.
Sec. 14-53. Denial of permit.
Sec. 14-54. Emergency work.
Sec. 14-55. Revocation of permits.
Sec. 14-56. Appeal.
Sec. 14-57. Mapping.
Sec. 14-58. Location of facilities and equipment.
Sec. 14-59. Relocation.
Sec. 14-60. Right-of-way vacation.
Sec. 14-61. Abandoned and unusable equipment.
Sec. 14-62. Indemnification and liability.
Sec. 14-63. Franchise holders.
Secs. 14-64—14-83. Reserved.

Division 2. Encroachments

Sec. 14-84. License required.

Sec. 14-85. Application.
Sec. 14-86. Application fee.
Sec. 14-87. License agreement.
Sec. 14-88. Agreement to be recorded.
Sec. 14-89. Standard of issuance.
Sec. 14-90. Investigation.
Secs. 14-91—14-108. Reserved.

Article III. Pedestrian Corridor Management

Sec. 14-109. Findings and purpose.
Sec. 14-110. Definitions.
Sec. 14-111. Prohibited acts.
Sec. 14-112. Exemptions from section 14-111.
Sec. 14-113. Hours of operation.
Sec. 14-114. Posted notice.
Sec. 14-115. Enforcement.
Sec. 14-116. Abandoned personal property.
Sec. 14-117. Penalties.
Secs. 14-118—14-147. Reserved.

Article IV. Landscape Management

Division 1. Generally

Sec. 14-148. Definitions.
Sec. 14-149. City responsibility.
Sec. 14-150. Boulevards.
Sec. 14-151. Authorization to plant, remove and trim trees.
Sec. 14-152. Tree protection.
Sec. 14-153. Tree care.
Sec. 14-154. Trimming and corner clearance.
Sec. 14-155. Building operations.
Sec. 14-156. Interference unlawful.
Sec. 14-157. Notice of noncompliance.
Secs. 14-158—14-182. Reserved.

Division 2. Vegetation Maintenance

Sec. 14-183. Findings and purpose.
Sec. 14-184. Definitions.
Sec. 14-185. Nuisance declared.
Sec. 14-186. Exemptions and conditions for exemptions.
Sec. 14-187. Natural landscape permits.
Sec. 14-188. Approval, denial and revocation of natural landscape permits.
Sec. 14-189. Appeal.
Sec. 14-190. Notice of noncompliance.

ARTICLE I. IN GENERAL

Sec. 14-1. Definitions.

Any term used in this chapter that is defined in M.S.A. § 169.011 shall have the meaning provided in M.S.A. § 169.011.
(Code 2015, § 6.01; Ord. of 2-28-1977; Ord. No. O-2023-0626-1, § 6.01, 6-26-2023)

Sec. 14-2. Ice and snow on public sidewalks.

(a) *Public nuisance.* Any accumulation of snow or ice upon any public sidewalk is hereby declared to constitute a public nuisance which shall be abated by the owner or occupant of the property abutting such sidewalk within 24 hours after such snow or ice has ceased to be deposited upon such sidewalk.

(b) *Abatement.* If the owner or occupant of the property abutting any public sidewalk upon which snow or ice has accumulated fails to abate the nuisance thereby created within 24 hours, the city may cause to be served upon the owner of the property upon which such nuisance exists by registered or certified mail or by personal service a notice ordering such owner to remove the nuisance within one day after the date of the notice, and stating that, in the event the owner does not comply with such order, the necessary work may be performed or caused to be performed by the city at the expense of the owner, and that, if the owner does not pay for such expense, the cost of the work will be assessed against the property benefited. The notice shall also be posted on the property for a period of one day after which period the city may perform any necessary work.

(c) *City removal.* If the owner or occupant of the property abutting any public sidewalk upon which snow or ice has accumulated fails to abate the nuisance thereby created within one day of the date of the notice and posting of the property, the city manager or their designated agent may cause the removal of such snow or ice. The agent causing such removal shall maintain a record showing the cost of such removal attributable to each separate lot and parcel and shall deliver such information to the city manager or designee. The accumulated snow and ice shall be removed and treated to a standard approved by the city manager that mitigates the hazard created by the accumulation.

(d) *Assessment.* Upon receipt of the information required by the preceding subsection, the city manager shall forward to the council a statement setting forth the unpaid charge for the cost of the removal of any snow or ice pursuant to subsection (c) of this section for each separate lot or parcel. The council may then, pursuant to the provisions of M.S.A. ch. 429, assess any such charge against the property benefited, and any such assessment, at the time at which taxes are certified to the county auditor, shall be certified for collection in the manner that other special assessments are so certified.

(e) *Civil suit for cost of removal.* The city manager may, as an alternative to the assessment procedure set forth in subsection (d) of this section, initiate a civil suit in a court of competent jurisdiction to recover from the owner of land adjacent to which sidewalks have been cleared, as provided in subsection (b) of this section, the cost of the removal of snow or ice, together with allowable costs and disbursements.

(f) *Placing snow or ice on public street or city property.* It is unlawful for any person, not acting under contract with the city, to remove snow or ice from private property and place, in such quantity or manner as to cause a hazard to travel, such snow or ice upon a public right-of-way without proper arrangements for the immediate removal thereof. It is unlawful for any person not acting under contract with the city to place or deposit any snow or ice upon city property.
(Code 2015, § 6.03; Ord. of 2-28-1977; Ord. of 2-23-2009; Ord. No. 18-0212-1, § 6.03, 2-12-2018)

Sec. 14-3. Private use of public streets and parking lots.

(a) *Permission.* The council may, upon application made to the city clerk and reviewed and recommended by the site plan and traffic safety committee, grant, subject to such terms as deemed equitable by the council, permission to the applicant for the private use of any public street, parking lot or sidewalk, whereby on-street parking or the use of any private parking lot or ramp or sidewalk may be restricted for a private purpose. In establishing whether compensation for such permission shall be paid to the city, and the amount thereof, the council shall consider the amount and location of the public facility to be used by the applicant, the loss of revenue occasioned by such private uses, and the inconvenience placed by such use upon the public.

(b) *Hearing.* The council shall, at the next regular meeting following the receipt of a complaint by any person aggrieved by any permission granted pursuant to subsection (a) of this section, schedule a public hearing regarding such complaint, to be held at least ten days after written notice of such hearing shall have been served in such manner as deemed appropriate by the council, upon the applicant and the complainant, and shall have been published in the official paper. Upon the completion of the hearing the council shall, by resolution, continue such permission subject to the original or amended conditions, or terminate such permission.
(Code 2015, § 6.10; Ord. of 2-28-1977; Ord. of 10-12-2009)

Sec. 14-4. Sidewalk painting.

It is unlawful for any person to paint, letter or color any public sidewalk or to paint upon any public sidewalk any letter, word, figure or character.
(Code 2015, § 6.12; Ord. of 2-28-1977)

Sec. 14-5. Vehicular access.

(a) It is unlawful for any person to build, erect or maintain any vehicular access or other structure in, over, or upon any public street or sidewalk without first obtaining a permit for such building, erection, construction or maintenance from the city council or city manager.

(b) Application for such a permit shall be made to the city manager or designee, who shall, upon receipt of such application, conduct such investigation as deemed necessary by the city manager or designee, and where appropriate, submit to the council a report of such investigation. The council may grant or deny the permit or grant such permit subject to such conditions as the council may deem appropriate.

(c) The city manager or designee, without reference of the application to the city council, may grant a permit:

(1) For a vehicular access to allow driveway construction for a single residential lot upon which a single-family dwelling is or will be located where such lot has access only to a public street and where the proposed vehicular access is in conformity with the planned vehicular access as detailed on the plat of the subdivision in which the lot is located; or

(2) To widen or reconstruct an existing vehicular access which widening or reconstruction meets city vehicular access standards.

(Code 2015, § 6.13; Ord. of 2-28-1977; Ord. of 1-26-1981; Ord. of 10-12-2009; Ord. of 8-27-2012; Ord. No. 18-0212-1, § 6.13, 2-12-2018)

Sec. 14-6. Private use of poles.

(a) *Permit required.* It is unlawful for any person, except a city employee acting within the course and scope of employment, to affix or attach to or suspend from any pole, tree, post or other plant or structure in the right-of-way of any public street or alley, any advertisement, banner, bill, flag, poster or sign of any nature without having first obtained a written permit therefor from the city.

(b) *Application.*

(1) Application for the permit required herein shall be made on forms provided by the city and shall state:

a. The name and address of the applicant;

b. Whether the applicant is a nonprofit club, corporation or organization;

c. The location of the proposed display of the items;

d. The number of items proposed to be displayed;

e. The text, if any, of all items proposed to be displayed;

f. The size and material of the items;

g. The proposed method of attachment;

h. An agreement indemnifying the city from all claims and demands which may arise as a result of such attachment or display;

i. The name and address of the insurer providing the insurance coverage required herein; and

j. The proposed period of display.

(2) The application shall be submitted to the city for consideration by the city manager or designee who shall act on such application within ten days of its receipt. The application shall be deemed denied if not acted upon within such ten-day period.

(c) *Application fee.* Each application for a permit required by the provisions of this section shall be accompanied by an application fee in the amount as established by resolution of the city council and provided in the city fee schedule, which fee shall be retained by the city whether or not a permit is issued.

(d) *Condition of permit.* Each permit issued pursuant to this section shall be issued upon the following conditions:

(1) *Term.* Each permit issued pursuant to this section shall be valid for the period, not to exceed six months, set forth on the permit.

(2) *Indemnity.* The permit shall indemnify and save harmless the city from any and all claims and demands which may arise as the result of the activities of the permitted pursuant to the permit.

(3) *Cost of attachment.* Each item displayed shall be affixed or attached and removed solely at the expense of the permittee.

(4) *Maintenance.* The permittee shall maintain each item displayed in a clean, neat and orderly manner, and shall remove any item which may become torn or frayed.

(5) *Height.* Each item displayed shall be affixed or attached at a height of not less than ten feet above the ground adjacent to the object to which the item is affixed.

(6) *Removal.* The permittee shall remove each item displayed prior to the expiration of the permit, or, in the event the item gives notice of an event, within 48 hours of the completion of the event.

(7) *Obstruction.* The permittee shall not display any item in such a manner as to interfere with traffic or to obstruct the view of any traffic control device.

(8) *Insurance.* The permittee shall, at all times during the duration of the permit, maintain public liability insurance, naming the city as an additional insured party, in the amount of at least $100,000.00 for any one claimant and $300,000.00 for any number of claimants arising out of a single occurrence with respect to the activities of the permittee pursuant to the permit, which insurance policy shall provide that the policy may not be canceled by any party, except upon at least ten days' prior written notice to the city. This insurance requirement may be waived by the city manager where the permit will only authorize the placement of lightweight flexible posters or signs attached to a pole in such a manner that no edges protrude from the pole.

(9) *Purpose.* The permit required by this section shall be granted only for civic, charitable or nonprofit organizational purposes.

(Code 2015, § 6.15; Ord. of 2-28-1983, § 1; Ord. No. 18-0212-1, § 6.16, 2-12-2018)

Sec. 14-7. Obstructions in the public right-of-way.

(a) *Generally.* It is unlawful for any person to erect or place any barricade, fence or obstruction upon any public right-of-way without having first obtained a permit for such erection or placement from the city manager or designee. Any such erection or placement shall be performed only in compliance with the conditions upon which such permit was issued.

(b) *Fires.* It is unlawful for any person to build or maintain any fire upon any public right-of-way.

(c) *Signs and appurtenances.* Except as otherwise provided in this Code, it is unlawful for any person to place or maintain any sign or appurtenance in or upon any public right-of-way.
(Code 2015, § 6.08; Ord. of 2-28-1977; Ord. No. 18-0212-1, § 6.08, 2-12-2018)

Sec. 14-8. Construction of roadway, sidewalk and curb.

(a) *Contract.* The owners of real property abutting upon public property upon which a proposed improvement is to be located, benefited by a proposed improvement, may, in accordance with the provisions of this section, contract for the construction of repair of any roadway surface, sidewalk or curb and gutter upon such public property, provided that in the event such is with the city, such owners shall make payment for such construction or repair, or adequate arrangements therefor, prior to the commencement of any work by the city.

(b) *Special assessment.* In the event any portion of the cost of the construction or repair of any roadway surface, sidewalk or curb and gutter upon any public property is to be defrayed by special assessment, the procedure prescribed in M.S.A. ch. 429, shall be followed.

(c) *Permit required.* It is unlawful to construct or repair any roadway surface, sidewalk or curb and gutter upon any public property without first obtaining a written permit, provided that no such permit is required for any such improvement ordered by the city council. The permit shall not relieve the holder from any damages caused by the holder to the person or property of others.

(d) *Application.*

(1) Application for the permit required herein shall be made on forms provided by the city, and such application shall:

   a. Describe the improvement;

   b. State the date work thereon will commence;

   c. State the length of time required to complete the same;

   d. Be accompanied by plans and specifications in conformity with the requirements of this chapter and consistent with proper engineering practice; and

   e. Contain an agreement by the applicant to be bound by the provisions of this chapter.

(2) Applications shall be referred by the building inspector to the division of engineering, and no permit shall be issued until the division of engineering has approved the application.

(e) *Specifications.* Any construction or repair of any roadway surface, sidewalk or curb or gutter shall be made in accordance with the specifications and standards adopted by the city and filed with the division of engineering. Such specifications and standards shall be open to inspection and copying.

(f) *Inspection.* The city designee shall inspect any such improvements as deemed necessary or advisable. Any work on any such improvement not performed according to the applicable specifications and standards, of the American Disabilities Act (ADA), shall be removed and corrected at the expense of the permit holder. This subsection shall not be construed so as to place a continuing burden upon the city to inspect or supervise such work.
(Code 2015, § 6.05(1)(A), (B), (2)—(5); Ord. of 2-28-1977; Ord. No. 18-0212-1, § 6.05(2), (5), 2-12-2018)

Sec. 14-9. Sidewalk, bicycle and trail systems established.

(a) The sidewalks and trail plan found within the city's complete streets plan dated April 24, 2015, or the most current version, a copy of which is on file with the city is incorporated and made a part hereof. The plan shall be as much a part of this chapter as if the matters and information set forth by the plan were all fully described herein.

(b) All sidewalks, trails and bicycle routes throughout the city shall be installed and maintained in accordance with the city's complete streets plan. The planning commission shall include sidewalk, trail and bicycle route recommendations consistent with the city's complete streets plan as part of the subdivision plat approval process.

(c) All street improvement projects shall include an assessment for sidewalks and trails at the standard assessment rate and in conformance with the assessment policy.
(Code 2015, § 6.05(1)(C), (D); Ord. of 2-28-1977; Ord. of 6-24-1996; Ord. No. 18-0212-1, § 6.05(1), 2-12-2018)

Sec. 14-10. Curb setback.

(a) *Permit required.* It is unlawful for any person to remove or cause to be removed any public curb from the position of the curb abutting upon the roadway to any other position without first obtaining a permit for such movement or removal from the city council. Application for such a permit shall be made to the city manager who shall, upon receipt of any such application, conduct such investigation as deemed necessary by the city manager, and submit to the council a report of such investigation. The council may grant or deny the permit or grant such permit subject to such conditions as the council may deem appropriate.

(b) *Agreement required.* No setback permit shall be granted until the applicant and the owner of the real property abutting the proposed setback if other than the applicant, shall have executed an agreement with the city wherein the applicant and abutting property owner shall:

(1) Agree to pay the cost of the movement or removal of the curbing, including any necessary construction or reconstruction of curb and gutter;

(2) Agree to pay the cost of the construction, installation and maintenance of a pavement or roadway surface, of similar nature to that of the roadway abutting any setback area created by such movement or removal, for the area of any setback so created; and

(3) Agree to demolish or remove any such setback area or relocated curb as may, in the opinion of the city council, constitute a public hazard or nuisance, and to pay the cost of the

restoration of any area so demolished or removed. Every such agreement shall run with the abutting property, shall be binding upon the heirs, representatives, successors and assigns of the parties to the agreement, and shall be recorded in the office of the county recorder of the county in which such abutting property is situated.

(c) *Public rights reserved.* Any setback area created pursuant to this section shall be for the benefit of the public, and the applicant or abutting property owner shall not require any interest in or control over the setback area so created.
(Code 2015, § 6.14; Ord. of 2-28-1977)

Sec. 14-11. Sewer and water lateral installation.

(a) *Laterals required.* The council shall not approve any petition for the improvement of any street, involving the construction of any pavement, stabilized base, or curb and gutter, unless all sewer and water facilities, including the installation of service laterals extending to the curb for each lot served by such improvement shall have been completed or the completion thereof required as part of such improvement.

(b) *Sewer conditions.* No sewer system shall hereafter be constructed or extended unless such construction or extension shall include the installation of service laterals to each platted lot and such other property as may be served by the sewer system so constructed or extended.

(c) *Waiver.* The council may, upon such notice and after such hearing deemed necessary by the council, waive the requirements of this section upon a finding that the applicant of this section is not warranted.
(Code 2015, § 6.09; Ord. of 2-28-1977)

Sec. 14-12. Vacation of streets.

The vacation of any public alley, street or ground shall be in accordance with the provisions of the city Charter. Each petition for vacation of a public alley, street or ground shall be accompanied by a nonrefundable application fee as established by resolution of the city council and provided in the city fee schedule. No petition shall be accepted unless accompanied by the application fee. In the event the city is the petitioner for the vacation, no application fee shall be required.
(Code 2015, § 6.07; Ord. of 2-28-1977; Ord. of 2-8-1982; Ord. No. 18-0212-1, § 6.07, 2-12-2018)

Secs. 14-13—14-42. Reserved.

ARTICLE II. RIGHT-OF-WAY MANAGEMENT

DIVISION 1. GENERALLY

Sec. 14-43. Findings and purpose.

(a) The city holds the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The city and other public entities have invested substantial dollars in public funds to build and maintain the rights-of-way. The city also recognizes that by placing other utility equipment in the

right-of-way for the purpose of delivering services to the citizens of the city also is a public use of this property for the public good. Although such services are necessary or convenient for the citizens, other persons or entities receive revenue or profit through their use of public property. Although the installation of such service delivery facilities are in most cases a necessary and proper use of rights-of-way, the city must regulate and manage such uses.

(b) To provide for the health, safety and well-being of its citizens, and to ensure the structural integrity of its streets, utilities and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the rights-of-way, one of the causes for the early and excessive deterioration of its rights-of-way is frequent excavation.

(c) This division imposes reasonable regulations on the placement and maintenance of equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this division, persons disturbing and obstructing the rights-of-way will bear a fair share of the financial responsibility for their integrity. Finally, this division provides for recovery of the city's costs associated with managing its rights-of-way.

(Code 2015, § 6.06(1); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(1), 2-12-2018)

Sec. 14-44. Definitions.

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

City cost means the actual cost incurred by the city for public rights-of-way management, including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving facilities during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed; mapping of as built locations of facilities located in rights-of-way; and revoking right-of-way permits and performing all other tasks required by this division, including other costs the city may incur in managing the provisions of this division.

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

Degradation cost means money paid to the city to cover the cost associated with a decrease in the useful life of a public right-of-way caused by excavation.

Emergency means a condition that poses a clear and immediate danger to life or health, or of a significant loss of property or requires immediate repair or replacement in order to restore service to a customer.

Equipment means any tangible thing or asset used to install, repair or maintain facilities in any right-of-way; but shall not include boulevard plantings or gardens planted or maintained in the right-of-way between a person's property and the street curb.

Excavate means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Micro wireless facility means a small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

Obstruction means an obstacle, blockage, or an object that impedes or prevents passage, progress, or to navigate around an object within the right-of-way, or otherwise negatively impacting the general public's engagement of the right-of-way.

Permit means a permit issued pursuant to this division.

Permit holder means any person to whom a permit to excavate or place equipment or facilities in a right-of-way has been granted by the city under this division.

Registrant means any person who has or seeks to have his or her facilities or equipment located in any right-of-way.

Restoration means the process by which the right-of-way and surrounding area, including pavement and foundation, is returned to the condition that meets or exceeds the right-of-way condition before the commencement of the work.

Restoration cost means money paid to the city by a permittee to cover the cost of restoration.

Right-of-way means the surface and space above and below a public roadway, highway, street, alley, cartway, bicycle lane, public sidewalk or other areas intended for public use in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements owned by the city for city utility purposes.

Service or *utility service* means and includes, but is not limited to:

(1) Those services provided by a public utility as defined in M.S.A. § 216B.02, subds. 4 and 6;

(2) Telecommunications, pipeline, community antenna television, fire and alarm communications, water, sewer, electricity, light, heat, cooling energy, or power services;

(3) The services provided by a corporation organized for the purposes set forth in M.S.A. § 300.03;

(4) The services provided by a district heating or cooling system; and

(5) Cable communications systems as defined in M.S.A. ch. 238.

Small wireless facility means a wireless facility that has an antenna and is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six cubic feet; and all other wireless equipment associated with the small wireless facility excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup

power systems, ground equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than 28 cubic feet in volume.

Telecommunication rights-of-way user means a person owning or controlling a facility in the public right-of-way or seeking to own or control a facility in the public right-of-way that is used or is intended to be used for transporting telecommunication or other voice or data information. For the purposes of this division, a cable communication system defined and regulated under M.S.A. ch. 238 and telecommunication activities related to providing natural gas or electric energy services are not telecommunications right-of-way users.
(Code 2015, § 6.06(2); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(2), 2-12-2018)

Sec. 14-45. Fees.

Permit fees shall be assessed for work governed by this division in accordance with a resolution of the city council.
(Code 2015, § 6.06(3); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(3), 2-12-2018)

Sec. 14-46. Registration.

(a) *Annual registration required.* No person shall construct, install, repair, remove, relocate, obstruct or perform any work within any right-of-way without first being registered pursuant to this section. Such registration shall be made on an application form provided by the city and shall be accompanied by the registration fee provided by council resolution and provided in the city fee schedule. A service or utility service operating under a franchise with the city shall register pursuant to this section but need not provide the registration information required by subsection (b) of this section if such information has been submitted pursuant to the franchise agreement. A person who pays a franchise fee to the city in accordance with a franchise agreement shall be exempt from payment of a registration fee.

(b) *Registration information.* The registrant shall provide the following at the time of registration and shall promptly notify the city of changes in such information:

(1) Registrant's name, address, telephone number, facsimile number and Gopher One-Call registration certificate number if required by state law.

(2) Name, address, telephone number, and facsimile number of the person responsible for fulfilling the obligations of the registrant.

(3) A certificate of insurance from a company licensed to do business in the state providing coverage in the following amounts:

a. General liability: public liability, including premises, products and complete operations.

1. Bodily injury liability: $1,000,000.00 each person; $3,000,000.00 each occurrence.

2. Property damage liability: $3,000,000.00 each occurrence.
3. Bodily injury and property and damage combined: $3,000,000.00 single limit.

b. Comprehensive: automobile liability insurance, including owned, non-owned and hired vehicles.
1. Bodily injury liability: $1,000,000.00 each person; $3,000,000.00 each occurrence.
2. Property damage liability: $3,000,000.00 each occurrence.
3. In lieu of bodily injury and property damage combined: $3,000,000.00 single limit.

c. Standards: Such certificate shall verify that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and placement and use of equipment or facilities in the right-of-way by the registrant its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground equipment and collapse of property. Such certificate shall also indicate the registrant's insurance is the primary coverage, shall name the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages. Such certificate shall require that the city be notified 30 days prior to cancellation or nonrenewal of the policy.

(4) 24-hour emergency number.

(5) An acknowledgment by the registrant of the indemnification pursuant to section 14-62(b).

(6) Such other information the city may require.

(c) *Exceptions.* The following are not subject to the requirements of this subsection:

(1) Persons planting or maintaining boulevard plantings or gardens.

(2) Persons engaged in snow removal activities.

(3) Persons acting as agents, contractors or subcontractors for a registrant who has properly registered in accordance with this section.

(d) *Term.* Registrations issued pursuant to this section shall expire on December 1 of each calendar year.

(Code 2015, § 6.06(4); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(4), 2-12-2018)

Sec. 14-47. Permit required; bond; exceptions.

No person shall obstruct, excavate, dig, tunnel, trench, or install any facilities, equipment or improvements above, on, or beneath the surface of any right-of-way in the city or any property owned by the city without first obtaining a permit pursuant to this section.

(1) *Application fee.* An application for a permit shall be made on forms provided by the city and shall be accompanied by the fees as established by council resolution. If the work is to be

performed by an agent, contractor or subcontractor on behalf of a registrant, the application shall be signed by the registrant. The application shall also be accompanied by the following:

a. Scaled drawings showing the location of all facilities and improvements proposed by the applicant.

b. A description of the methods that will be used for installation.

c. A proposed schedule for all work.

d. The location of any public streets, sidewalks or alleys that will be temporarily closed to traffic during the work.

e. The location of any public streets, sidewalks, alleys or public utilities that will be disrupted by the work.

f. A description of methods for restoring any public improvements disrupted by the work.

g. Permits will not be issued until all requirements of this section have been received, including original signature, proof of insurance, and surety bond.

h. Any other information reasonably required by the city engineer.

(2) *Security.*

a. For companies not operating under a franchise with the city, a surety bond, letter of credit or cash deposit in the amount determined by the city engineer or city manager, but not less than $5,000.00, shall be required from each applicant. A surety bond shall be from a corporate surety authorized to do business in the state.

b. Security required pursuant to this subsection shall be conditioned that the holder will perform the work in accordance with this section and applicable regulations, will pay to the city any costs incurred by the city in performing work pursuant to this section; and will indemnify and save the city and its officers, agents and employees harmless against any and all claims, judgment or other costs arising from any excavation and other work covered by the permit or for which the city, council or any city officer may be liable by reason of any accident or injury to persons or property through the fault of the permit bolder, either in improperly guarding the excavation or for any other injury resulting from the negligence of the permit holder.

c. The bond, letter of credit or cash deposit shall be released by the city upon completion of the work and compliance with all conditions imposed by the permit. For permits allowing excavations within public streets, and right-of-way, such bond, letter of credit or cash deposit shall be held for a period of 36 months to guarantee the adequacy of all restoration work.

(3) *Permit conditions.*

a. The city engineer, city manager, or designee shall grant a permit upon finding the work will comply with applicable sections.

b. The permit shall be kept on the site of the work while it is in progress, in the custody of the individual in charge of the work. The permit shall be exhibited upon request made by any city official or police officer.

c. The city engineer, city manager, or designee may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.

d. No permit shall be issued to anyone who has failed to register in accordance with section 14-46.

(4) *Exceptions.* No permit shall be required for landscaping work permitted by the city pursuant to site improvement agreements or for snow removal activities.

(Code 2015, § 6.06(5); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(5), 2-12-2018)

Sec. 14-48. Diligence in performing work.

(a) Work shall progress in an expeditious manner as reasonably permitted by weather conditions until completion in order to avoid unnecessary inconvenience to the public.

(b) In the event that the work is not performed in accordance with applicable regulations pertaining to excavations and utility connections, or the work is not done in an expeditious manner, or shall cease or be abandoned without due cause, the city may, after a 48-hour notice to the permit holder, perform any emergency work as necessary, or otherwise make the work area safe to the general public. The entire cost of such work shall be paid by the permit holder upon demand made by the city.

(c) The financial guarantees made per section 14-47(2) may be used by the city to reimburse itself for the city's incurred costs, including its private engineering consulting fees and attorney's fees to complete the work under this division.

(Code 2015, § 6.06(6); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(6), 2-12-2018)

Sec. 14-49. Standards during construction or installation.

The permit holder shall comply with the following standards when engaging in the work:

(1) Take such precautions as are necessary to avoid creating unsanitary conditions. Observe and comply with all laws, rules and regulations of the state and city.

(2) Conduct the operations and perform the work in a manner as to ensure the least obstruction and interference to traffic.

(3) Take adequate precautions to ensure the safety of the general public and those who require access to abutting property.

(4) If required by the city engineer, or designee, notify adjoining property owners prior to the commencement of work which may disrupt the use of and access to such adjoining properties.

(5) In all cases where construction work interferes with the normal use of the construction area, provide for closing the construction area to traffic or to providing for restricted use of the area and comply with the state Manual on Uniform Traffic Control (MUTCD) traffic safety signing requirements.

(6) Exercise precaution at all times for the protection of persons, including employees and property.

(7) Protect and identify excavations and work operations with barricade flags, and if required, by flagmen in the daytime, and by warning lights at night.

(8) Provide proper trench protection as required by OSHA when necessary and depending upon the type of soil, in order to prevent cave-ins endangering life or tending to enlarge the excavation.

(9) Protect the root growth of trees and shrubbery.

(10) Installation of pipe (utility conductors) under Portland cement concrete, asphalt concrete, or other high-type bituminous pavements shall be done by jacking, auguring or tunneling as directed by the engineer unless otherwise authorized. HDPE sleeving shall be an acceptable casing or sleeving material for telecommunications installations.

(11) When removing pavement of Portland cement concrete, asphalt concrete or high-type built-up bituminous surfacing, the pavement shall be removed on each side of the trench or excavation a distance of one foot beyond the trench width and length, or to adjacent joint line as directed by a city representative in order to provide a shoulder and solid foundation for the surface restoration.

(12) All right-of-way surface cuts shall have a straight edge or neat appearing opening that may require a full depth saw cut or otherwise approved method directed by the city representative.

(13) Excavations, trenches and jacking pits off the roadway or adjacent to the roadway or curbing shall be shored and braced depending upon location and soil stability, and as directed by the city.

(14) Excavations, trenches and jacking pits shall be protected when unattended to prevent entrance of surface drainage.

(15) All backfilling must be placed in six-inch layers at optimum moisture and compacted with the objective of attaining 100 percent proctor density. Compaction shall be accomplished with pneumatic or vibrating compactors as appropriate.

(16) Backfill material shall be select grading material or material specified by the city engineer. Backfilling with the material from the excavation may be permitted, provided such material is granular in nature and acceptable to the city engineer.

(17) Compacted backfill shall be brought to subgrade elevation and shaped to match preexisting profile of the road. Backfill procedures shall provide for no settlements.

a. Settlements which occur within a three-year warranty period shall be repaired in a timely manner.

b. The permit holder shall be notified by the city within 15 calendar days to have necessary repairs performed from the nuisance condition.

c. If the permit holder cannot abate the repairs within the specified time period, an approved plan for compliance must be filed with the city.

d. If remedial action is not taken, the city will abate the nuisance and charge all costs incurred therein against the applicant in accordance with chapter 11.

(18) Street and pedestrian traffic shall be maintained throughout construction unless provided otherwise by the permit.

(19) Upon completion, an inspection of the job site shall be made and the applicant shall be responsible for any damages caused by equipment within the general area of work.

(20) Dirt or debris must be periodically removed during construction, and upon completion of the project within 24 hours.

(21) Other reasonable standards and requirements of the city engineer or designee.

(Code 2015, § 6.06(7); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(7), 2-12-2018)

Sec. 14-50. Standards for wireless telecommunications facilities.

(a) *Purpose.* The city desires high quality wireless communication services to accommodate the needs of residents and businesses. At the same time, the city strives to minimize the negative impacts that wireless telecommunication facilities can have on aesthetics and public safety. Due to the many services that must be delivered within its limited area, the city also strives to avoid unnecessary encumbrances within the public right-of-way. The purpose of this section is to regulate wireless telecommunication facilities within the public right-of-way in a manner that balances desire for service with aesthetic, public safety and right-of-way flexibility concerns.

(b) *Findings.* Public rights-of-way are appropriate locations for wireless telecommunication facilities that present minimal impacts (i.e., small pole attachments that do not require new poles, do not require pole extensions, and do not have associated ground-mounted equipment). Wireless telecommunication facilities that require greater heights than can be afforded by existing poles in the public right-of-way and that require ground-mounted equipment are more appropriately sited outside the public right-of-way.

(c) *Wireless telecommunication facilities as pole attachments.* Wireless facilities that comply with the following requirements may be attached to existing public utility structures within the right-of-way after issuance of a permit:

(1) The wireless telecommunication facility shall not extend above the top of the existing public utility structure, and the height of the existing public utility structure shall not be increased to accommodate the wireless telecommunication facility.

(2) If the public utility structure must be replaced to structurally accommodate the wireless telecommunication facility, the replacement public utility structure height shall not exceed the existing public utility structure height and the replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than 50 percent.

(3) The wireless telecommunication facility shall not be larger than six cubic feet in volume and shall have no individual surface larger than four square feet.

(4) The wireless telecommunication facility shall not extend outward from the existing pole or tower or arm thereof by more than 2.5 feet, except that an antenna one-half inch in diameter or less may extend an additional six inches.

(5) The wireless telecommunication facility shall include no ground-mounted equipment within the planned widened rights-of-way.

(6) The wireless telecommunication facility shall not interfere with public safety communications.

(7) Wireless telecommunication facilities in the right-of-way shall be removed and relocated at city request in accordance to the requirements of section 14-59(a).

(8) The wireless telecommunication facility shall not block light emanating from the public utility structure and shall not otherwise interfere with the original use of the public utility structure.

(d) *Wireless telecommunication facilities as pole extensions or with ground-mounted equipment.* Wireless that require increased public utility structure height or that have ground-mounted equipment may be erected in the public right-of-way only when in compliance with the following provisions and after issuance of the required permits:

(1) The applicant shall demonstrate to the satisfaction of the city manager or designee that the wireless telecommunication facility cannot be placed in a code-compliant location outside the right-of-way within one-quarter mile of the proposed location.

(2) The replacement public utility structure, including lightning rods and all other attachments, shall not exceed the height of the existing public utility structure by more than 15 feet. Once the height of a public utility structure has been increased under the provisions of this section, the height shall not be further increased.

(3) The replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than 50 percent.

(4) The wireless telecommunication facility shall not extend outward from the public utility structure by more than two feet.

(5) If feasible and desirable, as determined by the city manager or designee, the replacement public utility structure shall match the original and surrounding public utility structures in materials and color.

(6) The wireless telecommunication facility shall not interfere with public safety communications.

(7) A pole attachment or excavation permit for a wireless telecommunication facility that has ground-mounted equipment will be issued only if the issuing authority finds the following:

a. The ground-mounted equipment will not disrupt traffic or pedestrian circulation;

b. The ground-mounted equipment will not create a safety hazard;

c. The location of the ground-mounted equipment minimizes impacts on adjacent property; and

d. The ground-mounted equipment will not adversely impact the health, safety or welfare of the community.

(8) Ground-mounted equipment associated with the wireless telecommunication facility shall meet the following performance standards:

a. Be set back a minimum of ten feet from the back of curb;

b. Be separated from a sidewalk by a minimum of three feet;

c. Be set back a minimum of 50 feet from the nearest intersecting right-of-way line;

d. Be separated from the nearest ground-mounted wireless telecommunication equipment installation on the same block face by a minimum of 330 feet unless the equipment is placed underground;

e. If located adjacent to residential uses, ground-mounted equipment shall be limited to three feet in height above grade and 27 cubic feet in cumulative size;

f. If located adjacent to nonresidential uses, ground-mounted equipment shall be limited to five feet in height above grade and 81 cubic feet in cumulative size;

g. Vegetative or other screening compatible with the surrounding area shall be provided around the ground-mounted equipment if deemed necessary by the city manager or designee.

(9) Wireless telecommunication facilities in the right-of-way shall be removed and relocated at city request in accordance to requirements of section 14-59(a).

(e) *New poles.* The erection in the right-of-way of a new pole to support wireless telecommunication facilities is not allowed, except as a replacement of an existing public utility structure subject to the requirements of this section.

(f) *Charges.* In addition to the permit fees, the city reserves the right to charge telecommunication providers for their use of the public right-of-way to the extent that such charges are allowed under state law. Telecommunication providers shall be responsible for payment of property taxes attributable to their equipment in the public right-of-way.

(Code 2015, § 6.06(8); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(8), 2-12-2018)

Sec. 14-51. Repair and restoration.

(a) *Schedule.* The work to be done under the permit, and the repair and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit. The applicant must submit a repair schedule to the city due to extraordinary circumstances beyond the control of the permit holder. In addition to repairing its own work, the permit holder must restore the general area of the work, and the surrounding areas, including any and all sidewalks, curb and gutter, catchbasins, manholes, valves, paving and foundations, etc., to the condition that existed before the commencement of the work but only to the extent the permit holder disturbed such surrounding areas.

(b) *General standards.* The permit holder shall perform repairs and restoration according to the standards and with the materials specified by city engineer. The city engineer shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. In exercising this authority, the city engineer shall be guided by the following standards and considerations:

(1) The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way.

(2) The traffic volume carried by the right-of-way, the character of the neighborhood surrounding the right-of-way;

(3) The pre-excavation condition of the right-of-way, the remaining life-expectancy of the right-of-way infrastructure affected by the excavation;

(4) Whether the relative cost of the method of restoration to the permit holder is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and

(5) The likelihood that the particular method of restoration would be effective in slowing the life of the service of the right-of-way and infrastructure that would otherwise take place.

(c) *Guarantees.* The permit holder shall guarantee its work and shall maintain it for 36 months following its completion. During this 36-month period it shall, upon notification from the city engineer, promptly correct all restoration work to the extent necessary, using the method required by the engineer.

(Code 2015, § 6.06(9); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(9), 2-12-2018)

Sec. 14-52. Permit limitations.

Permits issued pursuant to this division are valid only for the area of the right-of-way specified in the application and the permit and only for the dates so specified. No work shall be extended beyond the permitted area or dates without a new permit being procured therefor, provided the city engineer may extend the completion date of the work in accordance with section 14-51(a).

(Code 2015, § 6.06(10); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(10), 2-12-2018)

Sec. 14-53. Denial of permit.

The city engineer may deny a permit due to the following:

(1) Failure to register pursuant to section 14-46.

(2) A proposed excavation within a street or sidewalk surface that has been constructed or reconstructed within the preceding five years unless the city engineer or city manager determines that no other locations are feasible or when necessitated by an emergency.

(3) The applicant is subject to revocation of a prior permit issued pursuant to this division.

(4) The proposed schedule for the work would conflict or interfere with an exhibition, celebration, festival or any other similar event.

(5) The right-of-way would become unduly congested due to the proposed facilities and equipment when combined with other uses in the right-of-way as provided in section 14-58(c).

(6) Businesses or residences in the vicinity will be unreasonably disrupted by the work.

(7) The proposed schedule conflicts with scheduled total or partial reconstruction of the right-of-way.

(8) The applicant fails to comply with the requirements of this division or other sections of this Code.

(Code 2015, § 6.06(11); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(11), 2-12-2018)

Sec. 14-54. Emergency work.

(a) A registrant may proceed to take whatever actions are necessary to respond to an emergency. Within two business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this division for the actions it took in response to the emergency.

(b) If the city engineer becomes aware of an emergency, the engineer shall attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city engineer may take whatever action deemed necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities or equipment occasioned the emergency.

(Code 2015, § 6.06(12); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(12), 2-12-2018)

Sec. 14-55. Revocation of permits.

The city engineer, city manager, or designee may revoke any permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, this Code, rule or regulation, or any

condition of the permit which substantial breach shall continue uncured for ten calendar days after the issuance of a written order of the city engineer. A substantial breach of a permit holder shall include, but shall not be limited to, the following:

(1) The violation of any material provision of the permit;

(2) An evasion or attempt to evade any material provision of the permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

(3) Any material misrepresentation of fact in the application for a permit;

(4) The failure to maintain the required bonds and insurance;

(5) The failure to complete the work in a timely manner; or

(6) The failure to correct a condition indicated on an order issued by the engineer.

(Code 2015, § 6.06(13); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(13), 2-12-2018)

Sec. 14-56. Appeal.

Any person aggrieved by the denial of a permit application, the denial of a registration, or the revocation of a permit may appeal per chapter 2, article III, division 2. The notice must be filed within 20 days of the action causing the appeal.

(Code 2015, § 6.06(14); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(14), 2-12-2018)

Sec. 14-57. Mapping.

Within 60 days following completion of any work pursuant to a permit, the registrant shall provide the city engineer accurate maps and drawings certifying the as-built location of all facilities and equipment installed, owned and maintained by the registrant. Such maps and drawings shall indicate both the horizontal and vertical location of all facilities and equipment and shall be provided in a format consistent with the city's electronic mapping system. Failure to provide maps and drawings in accordance with this section shall be grounds for revoking the permit holder's registration.

(Code 2015, § 6.06(15); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(15), 2-12-2018)

Sec. 14-58. Location of facilities and equipment.

(a) *Undergrounding by telecommunications right-of-way users.* Any new construction and the installation of new equipment and replacement of old equipment of telecommunication right-of-way users shall be underground or contained within buildings or other structures in conformity with applicable codes. Provided, telecommunications right-of-way users may attach equipment and facilities to existing poles and structures maintained by a service or utility service.

(b) *Corridors.* The city engineer may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of equipment that is or which, pursuant to current technology, the city engineer expects will someday be located within the right-of-way. All permits issued by the city engineer involving the installation or replacement of equipment shall designate the proper corridor for the equipment at issue.

(c) *Limitation of space.* To protect health and safety, the city engineer shall have the power to prohibit or limit the placement of new or additional equipment within the right-of-way if there is insufficient space to accommodate all of the requests of registrants or persons to occupy and use the right-of-way. In making such decisions, the city engineer shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

(Code 2015, § 6.06(16); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(16), 2-12-2018)

Sec. 14-59. Relocation.

(a) *Relocation for city purposes.* A registrant shall promptly but in no event more than 120 days of the city's request, permanently remove and relocate at no charge to the city, any facilities or equipment if and when made necessary by a change in the grade, alignment or width of any right-of-way, by the construction, maintenance or operation of any city facilities or to protect the public health, safety and welfare. The registrant shall restore any rights-of-way to the condition it was in prior to removal and relocation.

(b) *Undergrounding of relocated telecommunications facilities.* A telecommunications right-of-way user shall relocate all aboveground facilities and equipment to underground locations at its own cost and expense at the city's request when:

(1) The city requires the relocation of all telecommunications facilities and equipment to underground locations; or

(2) Structures or poles to which the registrant's facilities or equipment is attached are abandoned or removed by the owner of such structures or poles.

(Code 2015, § 6.06(17); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(17), 2-12-2018)

Sec. 14-60. Right-of-way vacation.

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

(b) *Relocation of equipment.* If the vacation requires the relocation of registrant facilities and equipment; and

(1) If the vacation proceedings are initiated by the registrant, the registrant must pay the relocation costs; or

(2) If the vacation proceedings are initiated by the city, the registrant must pay the relocation costs unless otherwise agreed to by the city and the registrant; or

(3) If the vacation proceedings are initiated by a person other than the registrant or permit holder, such other person must pay the relocation costs.

(Code 2015, § 6.06(18); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(18), 2-12-2018)

Sec. 14-61. Abandoned and unusable equipment.

(a) *Discontinued operations.* A registrant who has determined to discontinue its operations in the city must either:

(1) Provide information satisfactory to the city engineer that the registrant's obligations for its equipment in the right-of-way under this division have been lawfully assumed by another registrant; or

(2) Submit to the city engineer an action plan for the removal or abandonment of equipment and facilities. The city engineer shall require removal of such facilities and equipment if the city engineer determines such removal is necessary to protect the public health, safety and welfare. The city engineer may require the registrant to post a bond in an amount sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the facilities and equipment.

(b) *Abandoned facilities equipment.* Facilities and equipment of a registrant located on the surface of or above a right-of-way or on city property which, for two years, remains unused shall be deemed to be abandoned. Such abandoned equipment is deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance, or requiring removal of the equipment or facilities by the registrant, or the registrant's successor in interest.

(c) *Removal of underground equipment.* Any registrant who has unusable and abandoned underground facilities or equipment in any right-of-way shall remove it from that right-of-way during the next scheduled excavation, to the extent such facilities or equipment is uncovered by such excavation unless this requirement is waived by the city engineer or city manager.

(Code 2015, § 6.06(19); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(19), 2-12-2018)

Sec. 14-62. Indemnification and liability.

(a) *Limitation of liability.* By reason of the acceptance of a registration or the grant of a right-of-way permit, the city does not assume any liability:

(1) For injures to persons, damage to property, or loss of service claims by parties other than the registrant or the city; or

(2) For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of equipment by registrants or activities of registrants.

(b) *Indemnification.* By registering with the city, a registrant agrees, or by accepting a permit under this division, a permit holder is required, to defend, indemnify, and hold the city whole and harmless from all costs, liabilities, and claims for damages of any kind, including the city's reasonable attorney's fees and costs arising out of the construction, presence, installation, maintenance, repair or operation of its equipment, or out of any activity undertaken in or near a right-of-way, whether or not any act or omission complained of is authorized, allowed, or prohibited by a right-of-way permit. It further agrees that it will not bring, nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the city for any claim nor for any award arising out of the presence, installation, maintenance or operation of its equipment, or any activity undertaken in or near a right-of-way, whether or not the act or omission complained of is authorized, allowed or prohibited by a right-of-way permit. The foregoing does not indemnify the city for its own negligence except for claims arising out of or alleging the city's negligence where such negligence arises out of or is primarily related to the presence, installation, construction, operation, maintenance or repair of the equipment by the registrant or on the registrant's behalf, including, but not limited to, the issuance of permits and inspection of plans or work. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant or to the city and the registrant, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf.
(Code 2015, § 6.06(20); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(20), 2-12-2018)

Sec. 14-63. Franchise holders.

If there is a conflict in language between the franchise of a person holding a franchise agreement with the city and this division, the terms of the franchise shall prevail.
(Code 2015, § 6.06(21); Ord. of 2-28-1977; Ord. of 3-9-1981; Ord. of 2-22-1999; Ord. No. 18-0212-1, § 6.06(21), 2-12-2018)

Secs. 14-64—14-83. Reserved.

DIVISION 2. ENCROACHMENTS

Sec. 14-84. License required.

It is unlawful for any person, as owner, lessee, occupant or other person in control of any real property within the city, to install, place, build, erect, maintain, occupy or use upon any such property any building, structure or physical encroachment which, in whole or in part, is installed, placed, built, erected, maintained, occupied or used on any portion of the right-of-way of any public street or alley, whether such right-of-way exists by reason of statutory or common law dedication or easement, without first having obtained a written license therefor pursuant to the provisions of this division.
(Code 2015, § 6.16(1); Ord. of 6-25-1979; Ord. No. 18-0212-1, § 6.16(1), 2-12-2018)

Sec. 14-85. Application.

(a) Application for the license required by the provisions of this division shall be made on a form provided by the city and shall state:

(1) The name and address of the applicant;

(2) The interest of the applicant in the real property upon which the building, structure or encroachment to be licensed is or is proposed to be located;

(3) The names and addresses of all record fee owners of such real property if not the applicant;

(4) The names and addresses of all parties other than the applicant and the record fee owners having any interest in such property;

(5) The legal description and street address of such property;

(6) A description of the size and character of the building, structure or encroachment to be licensed;

(7) A legal description of the area of the right-of-way upon which such building, structure or encroachment is or is proposed to be located;

(8) A statement that the applicant shall and agrees to indemnify the city from all claims and demands which may arise as a result of the installation, placement, building, erection, maintenance, occupation or use of such building, structure or encroachment upon such right-of-way;

(9) The name and address of the insurer providing the insurance coverage required herein;

(10) A description of the facts requiring the issuance of the license for which application is made; and

(11) A statement that the applicant understands and agrees that, if the license for which application is made is granted, the license shall be revocable, and that the applicant shall not acquire any vested rights thereunder.

(b) The application shall be submitted to the city, for the consideration of the city council.
(Code 2015, § 6.16(2); Ord. of 6-25-1979; Ord. No. 18-0212-1, § 6.16(2), 2-12-2018)

Sec. 14-86. Application fee.

Each application for a license required by the provisions of this division shall be accompanied by an application fee in an amount established by resolution of the city council and provided in the city fee schedule, which fee shall be retained by the city whether or not a license is issued.
(Code 2015, § 6.16(3); Ord. of 6-25-1979; Ord. No. 18-0212-1, § 6.16(3), 2-12-2018)

Sec. 14-87. License agreement.

Each license issued pursuant to the provisions of this division shall be embodied in a written license agreement between the city and the applicant and all record owners of such real property, which license agreement shall include the following:

(1) *Purpose.* A statement of the purpose for which the licensee may occupy or use the right-of-way;

(2) *Term.* A statement of the term of the license, to be determined by the city council;

(3) *Limitation of encroachment.* A statement that the licensee shall not further encroach upon any right-of-way, except pursuant to a license issued by the city pursuant to the provisions of this division;

(4) *Indemnification.* A statement that the license shall indemnify and save harmless the city from any and all claims and demands which may arise as a result of the installation, placement, building, erection, maintenance, occupation or use of such building, structure or encroachment upon such right-of-way;

(5) *Maintenance.* A statement that the occupation or use licensed shall be maintained by the licensee in a clean, neat, orderly and safe manner;

(6) *Insurance.* A statement that the licensee shall, at all times during the duration of the license, maintain public liability insurance, naming the city as an additional insured party, in the amounts of at least the maximum amounts of tort liability of the city pursuant to statute, with respect to the occupation and use of such right-of-way by the licensee, which insurance shall be evidenced by a policy providing, in part, that such insurance shall not be canceled or terminated by any party, except upon ten days' prior written notice to the city; and

(7) *No vested right created.* A statement that the issuance of the license shall not constitute or be construed as creating or establishing any vested right of the licensee in or to such right-of-way, and that the license shall be revocable by the city council.

(Code 2015, § 6.16(4); Ord. of 6-25-1979; Ord. No. 18-0212-1, § 6.16(4), 2-12-2018)

Sec. 14-88. Agreement to be recorded.

Each license agreement required by the provisions of section 14-87 shall either be recorded in the office of the appropriate county recorder or filed with the appropriate registrar of titles, so as to place all successors and assigns of the licensee on notice of the provisions of such agreement.

(Code 2015, § 6.16(5); Ord. of 6-25-1979; Ord. No. 18-0212-1, § 6.16(5), 2-12-2018)

Sec. 14-89. Standard of issuance.

No license shall be granted pursuant to the provisions of this division unless and until the city council shall determine that granting of the application will not endanger the public or interfere with the use of the public of the road or alley located within such right-of-way.

(Code 2015, § 6.16(6); Ord. of 6-25-1979; Ord. No. 18-0212-1, § 6.16(6), 2-12-2018)

Sec. 14-90. Investigation.

The city council may, prior to the issuance of any license pursuant to this division, refer such application to any department or advisory committee for the purpose of obtaining the recommendation of such department or committee with respect to such application.

(Code 2015, § 6.16(7); Ord. of 6-25-1979; Ord. No. 18-0212-1, § 6.16(7), 2-12-2018)

Secs. 14-91—14-108. Reserved.

ARTICLE III. PEDESTRIAN CORRIDOR MANAGEMENT

Sec. 14-109. Findings and purpose.

The city council finds that:

(1) The city pedestrian corridor is a public pedestrian corridor system integrated into the larger downtown transportation system.

(2) The pedestrian corridor system supports economic vitality downtown and allows people to navigate throughout the downtown area in all weather conditions while affording developers opportunities to provide retail, service, housing, hotel, and office space abutting to or accessed from the pedestrian corridor system.

(3) The pedestrian corridor system supports connection from and use of parking, parking ramps, shops, hotels, office space, the downtown pedestrian corridor area, and residences.

(4) Many of the skyways within the pedestrian corridor systems are temperature controlled and have a financial cost to the public associated with heating the corridor.

(5) The city council finds that conduct in public pedestrian corridor systems over, across, and above city rights-of-way, is necessary to protect public health, safety, and welfare.

(Code 2015, § 6.20(1); Ord. No. O-2023-0626-2, § 6.20(1), 6-26-2023)

Sec. 14-110. Definitions.

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

Abandoned property means personal property that is left unattended in a pedestrian corridor; and:

(1) The ownership of which, upon discovery and after reasonable attempts by city manager or city manager designee, cannot be determined; or

(2) The property was left for more than 24 continuous hours; or

(3) The property was left in a manner that interferes with pedestrian traffic.

Downtown pedestrian corridor means the area bounded by Riverfront Drive to the west; East Main Street to the north; Second Street to the east; Warren Street to the south and the parking ramps servicing the downtown pedestrian corridor area and enabling pedestrian traffic flow through the pedestrian corridor.

Litter means to throw, deposit, discard or place or cause to be thrown, deposited, discarded, or placed upon or within any surface other than a designated trash receptacle any glass bottle, glass, nails, tacks, cans, garbage, swill, papers, refuse, offal, trash, or rubbish.

Pedestrian corridor means a corridor system for pedestrian traffic flow that includes enclosed, oftentimes temperature-controlled structures, commonly known as skyways or pedestrian bridges, located over, across, or above the public right-of-way, and in some instances above private property, intended for pedestrian traffic circulation, and also including those accessory areas or structures connecting to or providing access for public pedestrian traffic circulation through either the elevated

aboveground structures or to the downtown pedestrian corridor. The term "pedestrian corridor" shall include public pedestrian bridges or skyways that are currently in existence as well as those built after the date of the ordinance from which this article is derived. For the purposes of this article, the pedestrian corridor shall include:

(1) Bus shelters and parking ramps supporting the downtown pedestrian corridor;

(2) Stairways, stairwells, escalators, or elevators leading from or into public pedestrian bridges or skyways from private buildings or from other public areas; and

(3) Areas under stairs and escalators leading to and connecting concourse corridors, in addition to stairs, elevators, and escalators connecting the concourse corridors to public streets or other public property.

Security personnel means individuals hired by the private property owners of properties located within the downtown pedestrian corridor and adjoining to a skyway, including individuals hired as night watch people, whom, pursuant to this article, may enforce the hours of operation of the skyways.

Skyway means enclosed structures, oftentimes temperature-controlled, and commonly known as skyways or pedestrian bridges, located over, across, or above the public right-of-way, and in some instances above private property, intended for pedestrian traffic circulation.
(Code 2015, § 6.20(2); Ord. No. O-2023-0626-2, § 6.20(2), 6-26-2023)

Sec. 14-111. Prohibited acts.

No person shall commit any of the following acts within the pedestrian corridor. If an impediment or obstruction is caused by the size of a particular group, all persons within the group shall be equally subject to this article.

(1) Lie in or upon any portion of the pedestrian corridor, as that term is defined herein.

(2) Sit or stand or place an object in a manner that blocks, hinders or obstructs the free passage of pedestrians where signage has been posted related to ensuring pedestrian flow in the corridor system or after having been first warned by the city manager or city manager's designee of the prohibitions in this section and requested by the same to move or relocate so as to ensure pedestrian flow in the corridor system.

(3) Stand on any seat, railing, ledge, or other fixture.

(4) Engage in disorderly conduct.

(5) Operate any sound amplification device above the level of conversational speech.

(6) Use skateboards, roller skates, in-line skates, bicycles, scooters, or similar devices, except mobility assistance devices.

(7) Bring any nonservice animal into the pedestrian corridor, with the exception of police trained dogs accompanied by their handler.

(8) Bring in shopping carts from the premises of retail establishments.

(9) Litter or throw, deposit, discard, or cause any garbage, refuse, or rubbish to be thrown, deposited, or discarded upon or within any surface in the pedestrian corridor, unless the material is placed in a designated trash receptacle.

(10) Prop open any locked doors or damage any door, lock, security system or remove any recording system.

(11) Smoke, including vaping.

(12) Consume alcohol, ingest, or use THC or cannabis products, or carry open alcoholic containers.

(13) Urinate or defecate.

(14) Obstruct the free passage of others.

(15) Damage the pedestrian corridor or any of the fixtures.

(16) Place unpermitted art, markings, or drawings on the walls or fixtures of the pedestrian corridor system.

(Code 2015, § 6.20(3); Ord. No. O-2023-0626-2, § 6.20(3), 6-26-2023)

Sec. 14-112. Exemptions from section 14-111.

The following situations shall be exempt from the prohibitions of section 14-111, unless any such exemption creates or causes a hazardous condition or threatens public safety:

(1) *Medical emergency.* A person or number of persons standing, sitting, or lying in or upon any public right-of-way because of a medical emergency are exempted from the prohibitions of section 14-111 until the resolution of the medical emergency.

(2) *Permitted or sanctioned events.* A person or number of persons standing, sitting, or lying in or upon any public right-of-way because they are attending a permitted or sanctioned event in the city, such as, but not limited to, parades, festivals, assemblies, or concerts are exempted from the prohibitions of section 14-111 during their attendance at the event.

(3) *Government agents.* An agent of a government entity or a person or number of persons acting pursuant to authority or direction from a government agent are exempted from the prohibitions of section 14-111.

(Code 2015, § 6.20(4); Ord. No. O-2023-0626-2, § 6.20(4), 6-26-2023)

Sec. 14-113. Hours of operation.

(a) All sections of the skyway portion of the pedestrian corridor system shall be open to the public between the hours of 7:00 a.m. and 7:00 p.m. The city may post signs at all entrances to the skyway portion of the pedestrian corridor system. No person shall enter or remain within the skyway portion of the pedestrian corridor system outside of the hours of operation. The city manager, city manager's designee, or security personnel of adjoining properties may enforce these hours of operation.

(b) Any alternate hours of operation will be conspicuously posted within five feet of the appropriate entrances and exits within the skyway portion of the pedestrian corridor.
(Code 2015, § 6.20(5); Ord. No. O-2023-0626-2, § 6.20(5), 6-26-2023)

Sec. 14-114. Posted notice.

(a) At the direction of the city manager, the city may post, or cause to be posted, notice of the prohibitions of this article in pedestrian corridors or skyways.

(b) The notice shall consist of signage notifying the public of the prohibitions of this article and shall comply with the following requirements:

(1) The signage shall be in a font size readable to pedestrians traveling in the pedestrian corridor or skyway; and

(2) The signage shall publish the prohibitions or a summary of the prohibitions of this article and shall cite this article and, if applicable, any state laws.
(Code 2015, § 6.20(6); Ord. No. O-2023-0626-2, § 6.20(6), 6-26-2023)

Sec. 14-115. Enforcement.

The city manager or a designee of the city manager shall administer and enforce the provisions of this article. With respect to enforcement of hours of the skyway portion of the corridor system, security personnel of adjoining properties may also enforce the hours of operation.
(Code 2015, § 6.20(7); Ord. No. O-2023-0626-2, § 6.20(7), 6-26-2023)

Sec. 14-116. Abandoned personal property.

Abandoned personal property, as that term is defined herein, will be confiscated under this article. Confiscated items that the city manager or the city manager's designee deems have no apparent value or utility or are in unsanitary condition may be discarded immediately. Confiscated items that the city manager or the city manager's designee deems have value or utility will be treated in the same manner as unclaimed property under section 2-7. Confiscated weapons, drugs or stolen property will be given to law enforcement and retained pursuant to law enforcement policies.
(Code 2015, § 6.20(8); Ord. No. O-2023-0626-2, § 6.20(8), 6-26-2023)

Sec. 14-117. Penalties.

Violations of this article are a misdemeanor offense. Nothing in this section shall preclude the enforcement of provisions of this article by an appropriate civil action, including seeking an administrative penalty for any violations of this article, or seeking to enjoin any continued violation.
(Code 2015, § 6.20(9); Ord. No. O-2023-0626-2, § 6.20(9), 6-26-2023)

Secs. 14-118—14-147. Reserved.

ARTICLE IV. LANDSCAPE MANAGEMENT

DIVISION 1. GENERALLY

Sec. 14-148. Definitions.

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

Boulevard means that portion of the street not improved, designated or ordinarily used for vehicular traffic.

Park means any area or land owned by the city to which the public has free access as a park, whether or not such area has been individually named by the city council.

Prohibited species means any tree of the following species: Populus spp., commonly known as poplar; Salix spp., commonly known as willow; *Acer negundo*, commonly known as box elder; Fraxinus spp., commonly known as ash; and Coniferales, commonly known as evergreen.
(Code 2015, § 6.04(1); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. O-2022-1024-13, § 6.04(1), 10-24-2022)

Sec. 14-149. City responsibility.

The city, under the supervision of the city manager, shall be responsible for the enforcement of the provisions of this division.
(Code 2015, § 6.04(2); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. O-2022-1024-13, § 6.04(2), 10-24-2022)

Sec. 14-150. Boulevards.

Any part of any street may be improved as a boulevard or park area if the width and use of such street permit such improvements. No shrub, bush, hedge, flower, vine, or plant shall be planted or sown upon any boulevard, provided that grass or any tree other than a prohibited species may be planted upon any boulevard. No tree shall be planted closer than 33 feet from any other tree standing in any street except as authorized in writing, by the natural resource specialist.
(Code 2015, § 6.04(3); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. O-2022-1024-13, § 6.04(3), 10-24-2022)

Sec. 14-151. Authorization to plant, remove and trim trees.

Any owner of land abutting any boulevard may, upon first obtaining authorization from the natural resource specialist, fertilize, prune, spray, plant or remove any tree in that part of the boulevard to which such property abuts. Every such authorization shall specify the activity thereby approved and any condition to which such authorization is subject. In the event an owner of abutting property requests authorization for the removal of a tree, the natural resource specialist may issue such approval subject to the condition that such owner remove such tree in accordance with regulations

established by the city, that such owner assume all or any part of the cost of such removal, or that the tree removed be replaced at a location designated by the city by planting another tree of a type which may be designated by the city.
(Code 2015, § 6.04(4); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. O-2022-1024-13, § 6.04(4), 10-24-2022)

Sec. 14-152. Tree protection.

It is unlawful for any person, not acting under authorization from the city, to break, injure, mutilate, kill, or destroy any tree or shrub on any street, park or other property owned by the city, or permit any fire or the heat thereof to injure any portion of any such tree or shrub. It is unlawful for any person, not acting under authorization from the city, owning, using, or having control of gas or any other substance deleterious to the continued life of any tree or shrub, to allow such gas or substance to come in contact with the soil surrounding any tree or shrub on any street, park or other property owned by the city. No person, not acting under authorization from the city shall attach or permit to remain attached to any tree or shrub on any street, park or other property owned by the city, or to any guard or stake placed for the protection of such tree or shrub, any rope, wire, chain, sign, or other device.
(Code 2015, § 6.04(5); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. 18-0212-1, § 6.04, 2-12-2018; Ord. No. O-2022-1024-13, § 6.04(5), 10-24-2022)

Sec. 14-153. Tree care.

The city shall have the right to plant, trim, spray, preserve, fertilize any tree, plant or shrub on any street, alley, park, or other property owned by the city. The natural resource specialist may remove or cause to be removed, any tree or part thereof which is unsafe or may be injurious to any sewer or other public improvement, or is infested with any injurious fungus, insect, or other pest.
(Code 2015, § 6.04(6); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. O-2022-1024-13, § 6.04(6), 10-24-2022)

Sec. 14-154. Trimming and corner clearance.

The owner of any property upon which any tree overhanging any street or right-of-way is located shall trim the branches of such tree in such a manner that such branches shall not obstruct the light from any streetlamp or the view of any street intersection, and in such a manner that there exists a clear space or eight feet above the surface of any sidewalk, street or right-of-way beneath such tree. Every such owner shall remove any dead, diseased or dangerous tree, or any broken or decayed limb, which tree or limb may endanger the public. The city may trim any tree or shrub located on private property, in the event such tree or shrub obstructs the light from any streetlight, or obstructs the visibility of any traffic control device or sign, provided that such trimming shall be confined to the area immediately above the right-of-way. No tree may be planted or maintained within a distance of 30 feet along either street from the intersection of the edge of each roadway at any street intersection.
(Code 2015, § 6.04(7); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. O-2022-1024-13, § 6.04(7), 10-24-2022)

Sec. 14-155. Building operations.

Any person receiving from the city any permit or permission to use or occupy any part of any public street, park or other property owned by the city, incident to the construction, installation, maintenance, moving or repair of any building or structure, utility connection or line, or any public improvement shall conduct any such activity in such a manner as not to injure, deface or destroy any tree or shrub on any street, park or other property owned by the city.
(Code 2015, § 6.04(8); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. O-2022-1024-13, § 6.04(8), 10-24-2022)

Sec. 14-156. Interference unlawful.

It is unlawful for any person to obstruct or interfere with the natural resource specialist or any of his agents while engaged in or about the planting, cultivating, fertilizing, mulching, pruning, spraying, or removing of any tree, plant or shrub as authorized in this division.
(Code 2015, § 6.04(9); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. O-2022-1024-13, § 6.04(9), 10-24-2022)

Sec. 14-157. Notice of noncompliance.

In the event the owner of any property fails to properly trim any tree or shrub or fails to remove any hazardous tree or limb in conformity with the provisions of section 14-154 or permits a weed or grass nuisance to exist in violation of the provisions of this division, the nuisance shall be abated according to the provisions of chapter 11.
(Code 2015, § 6.04(10); Ord. of 3-25-1996; Ord. of 2-23-2009; Ord. No. O-2022-1024-13, § 6.09(10), 10-24-2022)

Secs. 14-158—14-182. Reserved.

DIVISION 2. VEGETATION MAINTENANCE

Sec. 14-183. Findings and purpose.

(a) The intent of this division to protect and preserve the city's neighborhoods and the public health, safety, and welfare of those who live there. It is determined that keeping the city free of tall grass and noxious weeds improves the quality of life of city residents by improving the aesthetics of the city, by eliminating harbor for rodents and insects, and by eliminating fire hazards.

(b) At the same time, it is recognized that requiring the mowing of grasses is under certain circumstances impractical and unreasonable, and the exemptions within this division are intended to cover these circumstances. The city also acknowledges that a variety of properly maintained landscapes within the city add diversity and a richness to the quality of life, and does not want to discourage the preservation, restoration and maintenance of diverse biologically stable natural plant communities or environmentally sounds practices.

(c) The city finds that the establishment of native or naturalistic plant communities is an acceptable landscape treatment in the city. However, as a protection for the general health, safety and welfare of the larger community, this change in vegetation must be properly planned, managed, and maintained to avoid creating a public nuisance.
(Code 2015, § 6.18(1); Ord. No. O-2022-1024-13, § 6.18(1), 10-24-2022)

Sec. 14-184. Definitions.

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

Buffer or *buffer strip* means a unit of yard, together with the plantings required thereon, designed to mitigate nuisance between adjacent land uses or between a land use and a public street.

Conservation easement has the meaning assigned under M.S.A. § 84C.01.

Landscaping means the active involvement in the encouragement of selected plants to grow on a site.

Native vegetation means grass and flowering broad-leaf plants that are native to or adapted to the state, or plant species classified by the state department of natural resources as native in the Minnesota Native Plant Database and that are commonly found in meadow and prairie plant communities. The term "native vegetation" does not include weeds as defined by this section.

Natural landscape permit means permit issued by the city allowing for native and natural plantings to exceed 12 inches in height in designated areas with conditions.

Natural landscaping means the use of groups of plants native to the area.

Noxious weeds means plants as defined and designated pursuant to the Minnesota Noxious Weed Law, M.S.A. §§ 18.76 through 18.91, or plants so designated by the commissioner of agriculture pursuant to the state statutes, those identified by the county, or USDA-APHIS. The city weed inspector or assistant city weed inspector shall maintain a current list of plants that are defined as noxious weeds for the purposes of this definition.

Prairie means plant community dominated by a diversity of native perennial herbaceous plants and grasses.

Regularly cut means mowing or otherwise cutting vegetation so that the dimension of the vegetation measured from the ground to the top of the vegetation (as extended upright), regardless of if that is the blade of the vegetation or any other part of the plant, does not exceed 12 inches in height.

Temporary erosion control grasses means grasses (winter wheat, oats, annual rye or regreen) that are used as single growing season cover or nurse crops to assist in the establishment of permanent vegetation.

Traditional landscaping means the use of turf grasses and woody plants (shrubbery and trees) with defined areas for cultivation of annual and perennial plants.

Transitional period means the amount of time to change from one type of landscaping to another. The period should not extend beyond three growing seasons for any specific area.

Turf grasses means bluegrass, fescue, ryegrass, or similar blends with nonwoody vegetation interspersed with them commonly used in regularly cut lawns.

Weeds means prohibited noxious weeds as identified by the state department of agriculture, the county, or USDA-APHIS and any undesirable or troublesome plant that is horticulturally out of place exceeding the height limitations in this division. For the purposes of this definition, Taraxacum spp. (common dandelions) are not considered a weed.

Wetland setback means the required 16.5-foot setback area around the boundary of a wetland which shall be maintained with naturally occurring vegetation.

Wetlands means lands transitional between terrestrial and aquatic systems where the water table is near the surface. The boundary of wetlands, for the purposes of this division, shall be determined according to the most recently published U.S. Army Corps of Engineers Wetland Delineation Manual.

Woodland means woodland means a group of trees with a continuous, overlapping canopy and an average crown height of 15 feet or greater whose combined crowns, when fully leafed, cover a minimum of 80 percent of an area of one acre of more, and which is composed of a related canopy, understory, and ground vegetation.

Woodland area means the ground area contained within the drip lines of all trees contained in a woodland.
(Code 2015, § 6.18(2); Ord. No. O-2022-1024-13, § 6.18(2), 10-24-2022)

Sec. 14-185. Nuisance declared.

It shall be unlawful and a public nuisance for any person having control of any property in the city to allow or maintain on such property any noxious weeds, or growth of grass and weeds in excess of 12 inches in height. The owner or occupant of any lot or parcel of land shall abate or prevent such nuisance on such lot or parcel, or on any portion of the street or alley abutting such lot or parcel. Abatement of such nuisance shall cause the vegetation to be cut, removed or treated for weeds.
(Code 2015, § 6.18(3); Ord. No. O-2022-1024-13, § 6.18(3), 10-24-2022)

Sec. 14-186. Exemptions and conditions for exemptions.

The provisions of this division shall not apply to the following:

(1) Non-noxious weeds and grass vegetation in an identified wetland area or required wetland setback.

(2) Non-noxious weeds and grass vegetation within a natural or woodland area.

(3) Non-noxious weeds, grasses, and herbaceous vegetation within 50 feet of designated stormwater ponds or natural or altered creeks, rivers, and stream corridors, including riparian buffer strips, that convey water.

(4) Non-noxious weed and grass vegetation growing on agriculturally zoned land.

(5) Non-noxious weed and grass vegetation growing within a conservation easement.

(6) Non-noxious weed and grass vegetation growing within a permitted development or construction site for the purpose of temporary erosion protection as approved by the city.

(7) Maintained and weeded prairies, or natural landscape vegetation that does not contain noxious weed growth, provided that the property owner applies for, is issued, and maintains a natural landscape permit as outlined in section 14-187.

(8) Grass and non-noxious weed vegetation on natural or altered slopes steeper than 2:1, meaning slopes that drop one foot for every two horizontal feet.

(9) Ornamental grasses and flowering plants within traditional landscape areas given that the grasses and plants do not cause an obstruction as defined in section 14-44.

(10) Grass and non-noxious weed vegetation covered by any other city permitted use.

(Code 2015, § 6.18(4); Ord. No. O-2022-1024-13, § 6.18(4), 10-24-2022)

Sec. 14-187. Natural landscape permits.

Natural landscape permits are required if a proposed landscape includes native vegetation that exceeds or is expected to exceed 12 inches in overall height. Permit applications shall be submitted to the public works department. All natural landscape permit applications shall contain:

(1) The name and address of the applicant and the legal description of the property within which the natural landscape area will be located if permitted.

(2) The name and address of the landscape architect, designer, or contractor being used if applicable.

(3) A site plan for the area sought to be permitted with immediately adjacent properties, public streets and alleys clearly labeled. Natural landscape areas must adhere to the following setback requirements:

a. Setback of the natural landscaped area not less than three feet from any and all property lines, public streets, sidewalks, and alleys.

b. All setback areas must be maintained to a height of less than 12 inches in height and kept free of noxious weeds.

c. Any plantings within intersection sight triangles must be maintained to a height of less than 30 inches at all times.

d. Setback requirements may be reduced if a fence at least four feet in height is installed between the natural landscape area and the property line or if the natural landscape area is adjacent to a natural area, wooded area, identified wetland, stormwater pond, creek, stream or river corridor, conservation easement, or other approved area.

(4) A list including the common and botanical names, average plant size and quantities of all plant materials being installed.

(5) A specific management and maintenance plan which shall include:

a. The estimated transition period.

b. The elimination of non-native or invasive vegetation and turfgrass.

c. The replanting of the area by transplant or seeded by human or mechanical means.

d. The maintenance of the area to be cut back to a height of no greater than 12 inches annually between April 15 and July 15.

e. The maintenance of the area to a height of 12 inches or less if weeds cover more than 25 percent of the native vegetation area.

f. Erosion control measures to be taken while the ground is bare of plant growth.

(6) No plantings are allowed within any drainage utility easement, road right-of-way or conservation easement without additional approvals by the city.

(7) The maintenance standard in this section applies to property that has been developed with a building, as defined in the building code, including vacant property combined with developed property for tax purposes, and a parcel of property that has been completely or partially disturbed by demolition, grading or other means in preparation for development or redevelopment.

(Code 2015, § 6.18(5); Ord. No. O-2022-1024-13, § 6.18(5), 10-24-2022)

Sec. 14-188. Approval, denial and revocation of natural landscape permits.

(a) *Approval.* The public works department shall determine the completeness of the application and shall issue the natural landscape permit unless:

(1) The management and maintenance plan are incomplete or inconsistent with the application requirements; or

(2) The transition period for the area is longer than three growing seasons.

(b) *Denial.* Any person whose application for a natural landscape permit is denied shall receive written notice of such denial and may appeal that determination to the city in the manner set forth in section 14-189. If the city determines that the applicant has complied with the application provisions of this division, including the management and maintenance plan requirements, it shall direct the public works department to issue the natural landscape permit.

(c) *Revocation.* A natural landscape permit may be revoked by the public works department for any of the following reasons:

(1) Weeds are present that do not conform to this division.

(2) Setbacks are not maintained.

(3) Vegetation within required setbacks listed in section 14-187(3) are not maintained to a height of less than 12 inches.

(4) The permittee fails to maintain the natural landscape area in a manner consistent with the management and maintenance plan included in the application.

(d) *Effective date.* The notice of revocation shall indicate that the revocations shall be effective on the date identified therein, which date shall be not less than seven days later than the date of the notice, unless the permittee files a written appeal to the city in the manner set forth herein. If the city determines that the permittee has failed to abide by the provisions of this division and the approved natural landscape permit, it shall direct the public works department to issue a tall grass and weed violation notice pursuant to the provisions of this division.
(Code 2015, § 6.18(6); Ord. No. O-2022-1024-13, § 6.18(6), 10-24-2022)

Sec. 14-189. Appeal.

Any person aggrieved by the denial of a permit application, or the revocation of a permit may appeal per chapter 2, article III, division 2. The notice must be filed to the city clerk within 20 days of the action causing the appeal.
(Code 2015, § 6.18(7); Ord. No. O-2022-1024-13, § 6.18(7), 10-24-2022)

Sec. 14-190. Notice of noncompliance.

In the event the owner of any property permits a weed or grass nuisance to exist in violation of the provisions of section 14-185, the nuisance shall be abated according to the provisions of chapter 11.
(Code 2015, § 6.18(8); Ord. No. O-2022-1024-13, § 6.18(8), 10-24-2022)

Chapter 15

TAXATION

Article I. In General

Sec. 15-1. Excise tax on the sale of motor vehicles.
Secs. 15-2—15-20. Reserved.

Article II. Lodging Tax

Sec. 15-21. Authority and purpose.
Sec. 15-22. Definitions.
Sec. 15-23. Local lodging tax imposed; amount of tax; coordination with state sales and use tax laws and rules.
Sec. 15-24. Advertising no tax.
Sec. 15-25. Use of proceeds.
Sec. 15-26. Agreement with the commissioner.
Secs. 15-27—15-55. Reserved.

Article III. Sales and Use Tax

Sec. 15-56. Authority.
Sec. 15-57. Definitions.
Sec. 15-58. Tax imposed; amount of tax; coordination with state law and rules.
Sec. 15-59. Exemption certificate.
Sec. 15-60. Presumption of purpose of sale.
Sec. 15-61. Collection of sales tax at time of sale.
Sec. 15-62. Agent of retailer.
Sec. 15-63. Effective date.
Sec. 15-64. Collection and enforcement.
Sec. 15-65. Tax clearance; issuance of licenses.
Sec. 15-66. Deposit of revenues; costs of administration; termination of tax.
Sec. 15-67. Agreement with the commissioner.
Secs. 15-68—15-92. Reserved.

Article IV. Food, Beverage and Entertainment Tax

Sec. 15-93. Authority.
Sec. 15-94. Definitions.
Sec. 15-95. Collection of tax.

ARTICLE I. IN GENERAL

Sec. 15-1. Excise tax on the sale of motor vehicles.

(a) As used in this section, the term "dealership" means any motor vehicle dealership within the city, and the term "motor vehicle" means passenger automobiles, pickup trucks, vans, and motorcycles, boats, pontoons, personal watercraft, ATVs, UTVs and snowmobiles having a value of $1,000.00 or more, and trailers for which registration is required under M.S.A. ch. 168 having a value of $4,000.00 or more.

(b) An excise tax of $20.00 is imposed on the sale of each new or used motor vehicle by a dealership. The excise tax shall be collected on all motor vehicle sales after the effective date of the ordinance from which this section is derived and shall be stated separately on the sales invoices rendered to the customers within the city.

(c) Payment will be made directly to the city on the forms specified by the city's finance director. Payment will be made by the 20th day of the month following the month of sale.

(d) The city shall have the authority to audit the dealership's books as necessary to ensure compliance with this section.
(Code 2015, § 15.04; Ord. No. O-2021-0726-4, § 15.04, 7-26-2021)

Secs. 15-2—15-20. Reserved.

ARTICLE II. LODGING TAX

Sec. 15-21. Authority and purpose.

The city is authorized to impose a tax of up to three percent on gross receipts subject to the lodging tax under M.S.A. § 469.190. The purpose of this article is to raise revenue to fund a local tourism bureau for the purpose of marketing and promoting the city as a tourist center.
(Code 2015, § 15.01(1); Ord. No. O-2021-0726-4, § 15.01(1), 7-26-2021)

Sec. 15-22. Definitions.

The following words, terms, and phrases have the meanings given them in this article unless the language or context clearly indicates a different meaning is intended. M.S.A. § 270C.171 is incorporated for definitions in this article. In any potential conflict between the statute and this article, the statute shall take precedence.

Accommodations intermediary means any person or entity, other than an accommodations provider, that facilitates the sale of lodging and related services as defined in this section, and that charges a room charge to a customer. The term "facilitates the sale" includes brokering, coordinating, or in any way arranging for the purchase of or the right to use accommodations by a customer. The term "room charge" means the total sales price paid by the customer for the lodging and related services.

Accommodations provider means any person or entity that furnishes lodging and related services, as defined in this section, to the general public for compensation. The term "furnishes" includes the sale of use or possession, or the sale of the right to use or possess.

Commissioner means the state commissioner of revenue or a person to whom the commissioner has delegated functions.

Lodging and related services means lodging and related services by a hotel, roominghouse, resort, campground, vacation rental, motel, or trailer camp, including furnishing the guest of the facility with access to telecommunication services, and the granting of any similar license to use real property in a specific facility, other than the renting or leasing of it for a continuous period of 30 days or more under an enforceable written agreement that may not be terminated without prior notice, and including accommodations intermediary services provided in connection with other services provided under this article.

State sales and use tax laws and rules means those provisions of the state revenue laws applicable to state sales and use tax imposition, administration, collection, and enforcement, including M.S.A. chs. 270C, 289A, 297A, 469A, and Minn. R. ch. 8130.
(Code 2015, § 15.01(2); Ord. No. O-2021-0726-4, § 15.01(2), 7-26-2021)

Sec. 15-23. Local lodging tax imposed; amount of tax; coordination with state sales and use tax laws and rules.

A local lodging tax is imposed in the amount of three percent on the gross receipts from sales of lodging and related services, as defined in section 15-22, sourced within city limits which are taxable under the state sales and use tax laws and rules. All of the provisions of the state sales and use tax laws and rules apply to the local lodging tax imposed by this article. The local lodging tax imposed by this article shall be collected and remitted to the commissioner by the accommodations intermediary and the accommodations provider on any sale when the state sales tax must be collected and remitted to the commissioner under the state sales and use tax laws and rules and in the same manner, and is in addition to the state sales and use tax.
(Code 2015, § 15.01(3); Ord. No. O-2021-0726-4, § 15.01(3), 7-26-2021)

Sec. 15-24. Advertising no tax.

It shall be unlawful for any accommodations intermediary or accommodations provider to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the accommodations intermediary or accommodations provider, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded.
(Code 2015, § 15.01(4); Ord. No. O-2021-0726-4, § 15.01(4), 7-26-2021)

Sec. 15-25. Use of proceeds.

(a) All of the revenues, interest, and penalties derived from the lodging tax imposed by this article collected by the commissioner and remitted to the city shall be deposited by the city finance director in the city treasury and shall be credited to the fund established to pay the costs of collecting the lodging tax imposed by this article and to fund a new or existing contract with a city convention or tourism bureau.

(b) In accordance with M.S.A. § 469.190, subd. 3, after the amount charged by the state for collection of the tax, 95 percent of the gross proceeds, derived from the lodging tax imposed by this article collected by the commissioner and remitted to the city, shall be deposited by the city finance director in the city treasury and shall be credited to the fund established to pay the costs of collecting the lodging tax imposed by this article and to fund the tourist center.
(Code 2015, § 15.01(5); Ord. No. O-2021-0726-4, § 15.01(5), 7-26-2021)

Sec. 15-26. Agreement with the commissioner.

The city may enter into an agreement with the commissioner regarding each party's respective roles and responsibilities related to the imposition, administration, collection, enforcement, and termination of the lodging tax imposed by this article. Any such agreement shall not abrogate, alter, or otherwise conflict with the state Sales and Use Tax Laws and Rules, this article, or M.S.A. § 469.190.
(Code 2015, § 15.01(6); Ord. No. O-2021-0726-4, § 15.01(6), 7-26-2021)

Secs. 15-27—15-55. Reserved.

ARTICLE III. SALES AND USE TAX

Sec. 15-56. Authority.

The city is authorized to impose a one-half percent sales and use tax within the city to provide revenues to pay the costs of collecting and administering the tax to the state commissioner of revenue and to finance the capital and administrative costs related to the funding of designated projects as defined below:

(1) Construction and improvements to regional recreational facilities; and

(2) Improvements to flood control and the levee system; and

(3) Water quality improvement projects in Blue Earth and Nicollet Counties; and

(4) Expansion of the regional transit building and related multimodal transit improvements; and

(5) Regional public safety and emergency communications improvements and equipment; and

(6) Matching funds for improvements to publicly owned regional facilities including a historic museum, supportive housing, and a senior center.

(Code 2015, § 15.02(1); Ord. No. O-2021-0726-4, § 15.02(1), 7-26-2021)

Sec. 15-57. Definitions.

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

Commissioner means the state commissioner of revenue or such other person designated to administer and collect the city sales and use tax.

State sales and use tax laws and rules means those provisions of the state revenue laws applicable to state sales and use tax imposition, administration, collection, and enforcement, including M.S.A. chs. 270C, 289A, 297A, and Minn. R. ch. 8130e.
(Code 2015, § 15.02(2); Ord. No. O-2021-0726-4, § 15.02(2), 7-26-2021)

Sec. 15-58. Tax imposed; amount of tax; coordination with state law and rules.

A local sales tax is imposed in the amount of one-half of one percent on the gross receipts from sales at retail sourced within city limits which are taxable under the state sales and use tax laws and rules. A local use tax is imposed in the amount of one-half of one percent on the storage, use, distribution or consumption of goods or services sourced within city limits which are taxable under the state sales and use tax laws and rules. All of the provisions of the state sales and use tax laws and rules apply to the local sales and use tax imposed by this article. The local sales and use tax imposed by this article shall be collected and remitted to the commissioner on any sale or purchase when the state sales tax must be collected and remitted under the state sales tax and use laws and rules and is in addition to the state sales and use tax.
(Code 2015, § 15.02(3); Ord. No. O-2021-0726-4, § 15.02(3), 7-26-2021)

Sec. 15-59. Exemption certificate.

An exemption certificate taken in good faith from a purchaser to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the tax imposed by this article will conclusively relieve the retailer from collecting and remitting the tax. A person who has obtained from the commissioner an exemption certificate pursuant to M.S.A. ch. 297A may use such exemption certificate for the purposes of the sales and use tax imposed by the city.
(Code 2015, § 15.02(4); Ord. No. O-2021-0726-4, § 15.02(4), 7-26-2021)

Sec. 15-60. Presumption of purpose of sale.

For the purpose of the proper administration and enforcement of section 15-58, it shall be presumed that all retail sales for delivery in the city are for storage, use, or other consumption in the city until the contrary is established.
(Code 2015, § 15.02(5); Ord. No. O-2021-0726-4, § 15.02(5), 7-26-2021)

Sec. 15-61. Collection of sales tax at time of sale.

(a) Any retailer making deliveries within the city, any retailer maintaining a place of business in the city, or any other retailer otherwise doing business within the city, upon making sale of any items in which are to be delivered within the city to the purchaser shall, at the time of making such sales, collect the sales tax from the purchaser. The tax collected by such retailer shall be remitted to the commissioner on behalf of the city.

(b) Any retailer required to collect the sales and use tax and remit such tax to the commissioner pursuant to this section shall register with the commissioner and provide such other information as the commissioner may require.

(c) The collection obligations of this section shall apply to remote sellers and marketplace providers subject to the requirements of M.S.A. ch. 297A.
(Code 2015, § 15.02(6); Ord. No. O-2021-0726-4, § 15.02(6), 7-26-2021)

Sec. 15-62. Agent of retailer.

When, in the opinion of the commissioner, it is necessary for the efficient administration of the tax, the commissioner may regard any salesman, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom such salesman, representative, trucker, peddler, or canvasser operates or from whom the tangible personal property being sold is obtained, and may regard the dealer, distributor, supervisor, employer, or other person as a retailer for the purposes of this article.
(Code 2015, § 15.02(7); Ord. No. O-2021-0726-4, § 15.02(7), 7-26-2021)

Sec. 15-63. Effective date.

The effect of this article is to extend the sales and use tax previously authorized by state statute.
(Code 2015, § 15.02(8); Ord. No. O-2021-0726-4, § 15.02(8), 7-26-2021)

Sec. 15-64. Collection and enforcement.

(a) The taxes imposed by the city hereunder shall be subject to the same interest, penalties, and other rules as are applicable to the state general sales and use tax imposed by M.S.A. chs. 289A and 297A. The taxes imposed by the city hereunder may be collected by the state on behalf of the city as provided by an appropriate agreement with the state commissioner of revenue.

(b) The city manager is authorized, in the name of the city, to enter into an appropriate agreement or agreements with the commissioner, to facilitate the issuance of permits, filing and auditing of returns, collection of revenues and issuance of refunds of the taxes and any other administrative matters relating to the administration of this article and the taxes imposed herein.
(Code 2015, § 15.02(9); Ord. No. O-2021-0726-4, § 15.02(9), 7-26-2021)

Sec. 15-65. Tax clearance; issuance of licenses.

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

(1) The term "city taxes" include sales and use tax as provided in this article. Penalties and interest are penalties and interest due on taxes included in this definition.

(2) The term "delinquent taxes" does not include a tax liability if:

   a. An administrative or court action which contests the amount or validity of the liability has been filed or served;

   b. The appeal period to contest the tax liability has not expired; or

   c. The applicant has entered into a payment agreement and is current with the payments.

(3) The term "applicant" means an individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership.

(b) A copy of the notice of delinquent taxes given to the licensing division of the city shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests in writing, within 30 days of the receipt of the notice of hearing, then, a contested case hearing shall be held under the same procedures as provided in M.S.A. ch. 270, for the state sales and use tax imposed under M.S.A. ch. 297A; provided, further, that if a hearing must be held on the state sales and use tax, hearings must be combined.
(Code 2015, § 15.02(10); Ord. No. O-2021-0726-4, § 15.02(10), 7-26-2021)

Sec. 15-66. Deposit of revenues; costs of administration; termination of tax.

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

(b) The local sales and use tax imposed by this article shall terminate at the earlier of December 31, 2038; or when the city council determines that $47,000,000.00 of bonding capacity, plus an amount sufficient to pay the costs related to issuing bonds and interest on the bonds has been received from the local sales and use tax imposed by this article to pay for all the capital and administrative costs directly related to completing the designated projects. Any funds remaining after payment of all such costs and retirement, or redemption of the bonds shall be placed in the general fund of the city. The local sales and use tax imposed by this article may terminate at an earlier time if the city council so determines by ordinance.
(Code 2015, § 15.02(11); Ord. No. O-2021-0726-4, § 15.02(11), 7-26-2021)

Sec. 15-67. Agreement with the commissioner.

The city may enter into an agreement with the commissioner regarding each party's respective roles and responsibilities related to the imposition, administration, collection, enforcement, and termination of the local sales and use tax imposed by this article. Any such agreement shall not abrogate, alter, or otherwise conflict with the state sales and use tax laws and rules, this article, or the authority listed in section 15-56 per Session Law.
(Code 2015, § 15.02(12); Ord. No. O-2021-0726-4, § 15.02(12), 7-26-2021)

Secs. 15-68—15-92. Reserved.

ARTICLE IV. FOOD, BEVERAGE AND ENTERTAINMENT TAX

Sec. 15-93. Authority.

The city is authorized to impose a sales tax of up to one percent on the gross receipts on all sales of food and beverages by a restaurant or place of refreshment that are located within the city, and to

admissions to an entertainment event located within the city. The city council on September 8, 2008, approved and imposed a sales tax in the amount of one-half percent on food, beverages, and entertainment. Proceeds from such taxes shall be used by the city to fund all or a portion of the expenses of operation and maintenance of Riverfront 2000 and related facilities.
(Code 2015, § 15.03(1); Ord. No. O-2021-0726-4, § 15.03(1), 7-26-2021)

Sec. 15-94. Definitions.

The words, terms, and phrases used in this article shall have the meaning ascribed to them in M.S.A. ch. 297A, except where the context clearly indicates otherwise. In addition, the following definitions shall apply:

Commissioner means the state commissioner of revenue or such other person designated to administer and collect the city food and beverage tax, and entertainment tax.

Entertainment event means any event for which persons pay money in order to be admitted to the premises and to be entertained, including, but not limited to, theatres, concerts and sporting events. For the purposes of this article, admissions paid to the following types of events or entertainment are excluded from and not subject to the tax imposed hereby: health, athletic or fitness club memberships; miniature golf facilities; skate board parks; ice or roller skating facilities; swimming pools, amusement parks; carnivals; fairs; games of skill; cover charges at night clubs or dance halls; coin-operated amusement devices, such as foosball, pool tables, pinball, cranes, batting cages and the like; tennis, racquetball or handball court fees; golf club memberships or greens fees and driving ranges.

Food and beverage means food and beverages that are subject to tax under M.S.A. ch. 297A, and Minn. R. ch. 8130, including pts. 8130.4700 and 8130.4705. The term "beverages" includes on-sale intoxicating liquor and fermented malt beverages, as defined or described in M.S.A. ch. 340A but does not include off-sale liquor sales.

Restaurant or *place of refreshment* means any of the various food and beverage service establishments defined in or that are part of a definition in M.S.A. § 157.15, regardless of whether the customer consumes the food or beverage in the establishment, picks it up for consumption elsewhere, or it is delivered to the customer.

Retailer maintaining a place of business in the city, or any like term, means any retailer having or maintaining within the city, directly or by a subsidiary, an office, place of distribution, sales or sample room or place, warehouse, or other place of business, or having any representative, agent, salesperson, canvasser, or solicitor operating in the city under the authority of the retailer or its subsidiary, for any purpose, including the repairing, selling, delivering, installation, or soliciting of orders of the retailer's goods or services, or the leasing of tangible personal property located in the city, whether the place of business or agent, representative, salesperson, canvasser, or solicitor is located in the city permanently or temporarily, or whether or not the retailer or subsidiary is authorized to do business within the city. This includes online marketplaces, such as DoorDash, Uber Eats, Grubhub, etc.

Riverfront 2000 and related facilities means a civic-convention center, an arena, a riverfront park, a technology center, and related educational facilities and all publicly owned real or personal property that the governing body of the city determines will be necessary to facilitate the use of these facilities, including, but not limited to, parking, skyways, pedestrian bridge, lighting, and landscaping.
(Code 2015, §§ 15.02(1), 15.03(2); Ord. No. O-2021-0726-4, §§ 15.02(1), 15.03(2), 7-26-2021)

Sec. 15-95. Collection of tax.

The provisions of sections 15-61, 15-64, 15-65 and 15-67 relating to collection and enforcement and the issuance of licenses shall apply to any taxes imposed by the city hereunder.
(Code 2015, § 15.03(3); Ord. No. O-2021-0726-4, § 15.03(3), 7-26-2021)

Chapter 16

TRAFFIC AND VEHICLES

Article I. In General

Sec. 16-1. Definitions.
Sec. 16-2. Traffic control devices.
Sec. 16-3. City manager's authority to regulate traffic.
Sec. 16-4. Driving on sidewalk.
Sec. 16-5. U-turns.
Sec. 16-6. Backing.
Sec. 16-7. Weight restrictions.
Sec. 16-8. Exhibition driving.
Secs. 16-9—16-34. Reserved.

Article II. Bicycles and Play Vehicles

Sec. 16-35. Bicycle lanes.
Sec. 16-36. Bicycles on sidewalk.
Sec. 16-37. Skates.
Sec. 16-38. Skateboards.
Secs. 16-39—16-62. Reserved.

Article III. Snowmobiles

Sec. 16-63. Scope of application.
Sec. 16-64. Private property.
Sec. 16-65. Sidewalks and boulevards.
Sec. 16-66. Public property.
Sec. 16-67. Public street.
Sec. 16-68. Council prohibition.
Sec. 16-69. Direct crossings.
Sec. 16-70. Intersections.
Sec. 16-71. Operating prohibitions.
Sec. 16-72. Equipment.
Secs. 16-73—16-102. Reserved.

Article IV. Utility-Terrain Vehicles and Mini-Trucks

Sec. 16-103. Purpose and intent.
Sec. 16-104. Definitions.
Sec. 16-105. Operation.
Sec. 16-106. Permits.
Sec. 16-107. Conditions of operation.
Sec. 16-108. Suspension, revocation or denial of permit.
Sec. 16-109. Violation; penalty.
Secs. 16-110—16-131. Reserved.

Article V. Dockless Scooters

Sec. 16-132. Definitions.
Sec. 16-133. Permit procedure.
Sec. 16-134. Standards and specifications.
Sec. 16-135. Permit fees.
Sec. 16-136. Operating regulations, parking and deployment.
Sec. 16-137. Impounding authorized.
Sec. 16-138. Change in operating area, limited speed, and restrictions of use.
Sec. 16-139. Weather-related expectations.
Sec. 16-140. Insurance/indemnification requirements.
Sec. 16-141. Data sharing and reporting.
Secs. 16-142—16-165. Reserved.

Article VI. Parking

Sec. 16-166. General restrictions.
Sec. 16-167. Parallel parking.
Sec. 16-168. Angle parking.
Sec. 16-169. Parking on street without curb.
Sec. 16-170. Parking on unmetered street.
Sec. 16-171. Emergency parking.
Sec. 16-172. Seasonal no parking.
Sec. 16-173. Temporary restricted parking.
Sec. 16-174. Truck parking.
Sec. 16-175. Loading zone.
Sec. 16-176. Lots and ramps.
Sec. 16-177. Parking meters.
Sec. 16-178. Travel trailer parking.
Sec. 16-179. Parking privileges for persons with disabilities.
Sec. 16-180. Special service district established.
Sec. 16-181. Moving or impounding vehicles.
Sec. 16-182. Penalty.

ARTICLE I. IN GENERAL

Sec. 16-1. Definitions.

Any term used in this chapter that is defined in M.S.A. § 169.011 shall have the meaning provided in M.S.A. § 169.011.

Sec. 16-2. Traffic control devices.

No device, sign or signal shall be erected or maintained for traffic or parking control unless the council shall first, by resolution, have approved and directed such erection or maintenance, except as otherwise provided in this chapter. The marking or signposting of such traffic or parking control shall attest to council action thereon.
(Code 2015, § 6.02(1); Ord. of 2-28-1977)

Sec. 16-3. City manager's authority to regulate traffic.

(a) *Temporary restrictions.* The city manager may cause traffic or parking to be temporarily directed or restricted for any public purpose by causing any such restriction to be clearly marked or signposted in accordance with a uniform marking or posting promulgated by the city manager, who shall be responsible for the enforcement of any such restriction.

(b) *Experimental restrictions.* The city manager may cause traffic or parking to be experimentally directed or restricted, and shall do so in the event a hazardous condition exists, by causing any such restriction to be clearly marked or signposted.

(c) *Lane restrictions.* Restrictions or prohibitions regarding the use of parking or traffic lanes may be designated by painting any such restriction or prohibition upon the appropriate curb or street.

(d) *Violation.* It is unlawful for any person to operate, park or leave standing any vehicle in violation of any restriction, direction or prohibition which has been designated, marked, or signposted as provided herein.

(e) *Limitations.* The city manager's authority to temporarily or experimentally restrict or direct traffic or parking in a given location shall not exceed a period of 90 days.
(Code 2015, § 6.02(2); Ord. of 2-28-1977)

Sec. 16-4. Driving on sidewalk.

It is unlawful for any person to drive or operate any motor vehicle designed primarily for operation upon public streets upon any public sidewalk, except when crossing such a public sidewalk while driving upon an existing driveway, alley or roadway.
(Code 2015, § 7.01; Ord. of 11-8-1976)

Sec. 16-5. U-turns.

It is unlawful for any person to turn a vehicle so as to reverse its direction between street intersections, or any intersection signposted as a "No U-Turn" zone.
(Code 2015, § 7.02; Ord. of 11-8-1976)

Sec. 16-6. Backing.

It is unlawful for any person to drive a vehicle in reverse for a distance in excess of 50 feet upon any street.
(Code 2015, § 7.03; Ord. of 11-8-1976)

Sec. 16-7. Weight restrictions.

(a) *Generally.* The council may, by resolution, designate any street on which travel by commercial vehicles in excess of the gross weight limit set forth in the resolution is prohibited, and upon passage of such a resolution, the city manager shall cause to be erected and maintained on such street appropriate signs setting forth such restriction. It is unlawful for any person to operate a commercial vehicle on any such posted street in violation of the restrictions stated.

(b) *Seasonal.* The city manager may prohibit the operation of vehicles upon any street or may impose weight restriction on vehicles to be operated on such street whenever such street, by reason of deterioration, rain, snow or other climate conditions, may be seriously damaged or destroyed unless the use of vehicles on the street is prohibited or the permissible weights thereof reduced. Upon such prohibition, the city manager shall cause to be erected and maintained signs plainly indicating the prohibition or restriction at each end of the portion of such street affected. It is unlawful for any person to operate a vehicle on any such posted street in violation of such prohibition or restriction.
(Code 2015, §§ 7.07, 7.08; Ord. of 11-8-1976)

Sec. 16-8. Exhibition driving.

(a) *Unlawful acts.* It is a misdemeanor for any person to drive or operate any motorized vehicle on a public street or highway, alley, parking lot, or other public or private property, in such a manner as to exhibit the driving or operation. This section shall not apply to driving conduct during an emergency which requires such operation to prevent injury to persons or damage to property or to legally sanctioned operation on a racetrack. For the purposes of this section, the term "racetrack" means any track or premises whereon motorized vehicles legally compete in a race or timed event contest for an audience, the members of which have directly or indirectly paid a consideration for admission.

(b) *Prima facie evidence.* It is prima facie evidence of exhibition driving when a motor vehicle is operated in a manner which produces unnecessary engine noise; or stops or starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, dirt, gravel or snow to be thrown, engine backfire, fishtail or skidding or any wheels to lose contact with the ground.
(Code 2015, § 7.09; Ord. of 10-13-2003)

Secs. 16-9—16-34. Reserved.

ARTICLE II. BICYCLES AND PLAY VEHICLES

Sec. 16-35. Bicycle lanes.

(a) *Establishment.* Pursuant to the authority granted to the city by the provisions of M.S.A. § 160.263, bicycle lanes, as defined in such M.S.A. § 160.263, are designated and established per the complete streets plan and policy, for the exclusive use of bicycles or other vehicles propelled by human power.

(b) *Operation of motor vehicle prohibited.* It is unlawful for any person to operate, drive, park or leave standing any motor vehicle in or upon any of the bicycle lanes designated or established in this section.

(c) *Direction of travel.* It is unlawful for any person to operate, drive or propel any bicycle or other vehicle propelled by human power in or upon any bicycle lane designated in this section, in any direction other than that direction permitted and described in subsection (a) of this section.
(Code 2015, § 7.04; Ord. of 3-26-1979)

Sec. 16-36. Bicycles on sidewalk.

The city manager may designate any sidewalk or portion of a sidewalk as an area where bicycle riding is prohibited and shall cause any sidewalk so designated to be appropriately signposted. It is unlawful for any person to ride a bicycle upon any sidewalk so designated.
(Code 2015, § 7.05; Ord. of 11-8-1976)

Sec. 16-37. Skates.

(a) It shall be unlawful to use skates of any kind on the property of another without the express permission of the property owner.

(b) It shall be unlawful to use skates of any kind on public property in such a way that endangers others or is undertaken at an excessive or dangerous speed. The term "excessive or dangerous speed" means a speed at which the skater does not have complete control of the skates and is unable to stop in a safe fashion without endangering themselves or others.

(c) It shall be unlawful to use skates of any kind on public property in such a way as to cause both the skates to leave contact with the skating surface at the same time.
(Code 2015, § 7.054; Ord. of 6-10-1996)

Sec. 16-38. Skateboards.

(a) It shall be unlawful to use a skateboard on a sidewalk or open mall area in any area zoned as Central Business District-1 (CBD-1) or Central Business District-2 (CBD-2).

(b) It shall be unlawful to use a skateboard on or in any city parking ramp or city parking lot.

(c) It shall be unlawful to use a skateboard in any other public right-of-way or city-owned land where the use of skateboards has been prohibited by resolution of the city council and such area has been posted with signs indicating that the use of skateboards has been prohibited.

(d) The term "use," for the purposes of this section, means to ride upon a skateboard or to propel a skateboard along by pushing or the force of gravity whether or not one or both feet are upon the skateboard.
(Code 2015, § 7.055; Ord. of 5-11-1987)

Secs. 16-39—16-62. Reserved.

ARTICLE III. SNOWMOBILES

Sec. 16-63. Scope of application.

The provisions of this article shall apply to and regulate the operation and use of any self-propelling vehicle designed for travel on snow or ice steered by skis or runners, such vehicle being hereinafter called a snowmobile.
(Code 2015, § 7.06(1); Ord. of 11-8-1976)

Sec. 16-64. Private property.

It is unlawful for any person to operate a snowmobile on private property without having first obtained the consent or permission to so operate of the owner of occupant thereof.
(Code 2015, § 7.06(2); Ord. of 11-8-1976)

Sec. 16-65. Sidewalks and boulevards.

It is unlawful for any person to operate a snowmobile on a sidewalk or boulevard, except in crossing such sidewalk or boulevard.
(Code 2015, § 7.06(3); Ord. of 11-8-1976)

Sec. 16-66. Public property.

It is unlawful for any person to operate a snowmobile upon any publicly owned property, including public school grounds, park property, public playgrounds and public recreational areas, without having first obtained the consent or permission to so operate of the public agency, or agent thereof, having control of such property.
(Code 2015, § 7.06(4); Ord. of 11-8-1976)

Sec. 16-67. Public street.

It is unlawful for any person to operate a snowmobile upon a public street in any portion where such operation is prohibited by state law, or in any portion other than the right half of the roadway, as close as is practicable to the right edge thereof.
(Code 2015, § 7.06(5); Ord. of 11-8-1976)

Sec. 16-68. Council prohibition.

The council may, by resolution passed after a public hearing of which notice has been published in the official paper at least ten days prior to the date thereof, prohibit the operation of snowmobiles

on any city property or within the right-of-way of any public street, in such a manner as the council finds is required in the interest of the public safety and welfare. Upon the posting in the appropriate area of notice of such prohibition, it shall be unlawful for any person to operate a snowmobile in any area so posted.
(Code 2015, § 7.06(6); Ord. of 11-8-1976)

Sec. 16-69. Direct crossings.

It is unlawful to operate a snowmobile in such a manner as to make a crossing of any street except as follows:

(1) The crossing shall be made at an angle of approximately 90 degrees with the direction of the street or highway, and at a place where no obstruction prevents a quick and safe crossing;

(2) The snowmobile shall be brought to a complete stop before crossing the shoulder or main-traveled way;

(3) The driver shall yield the right-of-way to all oncoming traffic which constitutes an immediate hazard;

(4) In crossing a divided street, the crossing shall be made only at an intersection of such street or highway with another public street or highway; and

(5) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise, or during conditions of reduced visibility, it shall be made only if both front and rear lights are on and in operational condition.

(Code 2015, § 7.06(7); Ord. of 11-8-1976)

Sec. 16-70. Intersections.

It is unlawful for the operator of a snowmobile to enter any intersection without yielding the right-of-way to any other vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.
(Code 2015, § 7.06(8); Ord. of 11-8-1976)

Sec. 16-71. Operating prohibitions.

It is unlawful for any person to operate a snowmobile in such a manner as:

(1) To tow any person or thing in a public street except with the use of a rigid tow bar attached to the rear of the snowmobile;

(2) To be within 100 feet of any fisherman, pedestrian, skating rink or sliding area, where the operation would conflict with such use or endanger persons or property;

(3) To leave a snowmobile in a public place without locking the ignition; removing the key away from the snowmobile;

(4) To intentionally drive, chase, run over or kill any animal;

(5) To operate a snowmobile during the hours from 11:00 p.m. to 7:00 a.m. of any day, closer than 100 feet to any dwelling which is usually occupied by one or more persons, except when traveling along a public right-of-way directly to the residence of the operator; and

(6) To travel at a rate of speed greater than reasonable or proper under all existing circumstances, and in any event to exceed 15 miles per hour while traveling on a city street or alley.

(Code 2015, § 7.06(9); Ord. of 11-8-1976)

Sec. 16-72. Equipment.

It is unlawful to operate a snowmobile unless it is equipped as follows:

(1) Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. It is unlawful for any person to use a muffler cutout, bypass, straight pipe or similar device on a snowmobile motor;

(2) Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation;

(3) A safety or so-called "deadman" throttle which, when pressure is removed from the engine accelerator throttle, causes the motor to be disengaged from the driving track, which device shall be in operating condition;

(4) When operated between the hours of one-half hour after sunset and one-half hour before sunrise, or at times of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions, so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. A snowmobile operated during such times shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions;

(5) A pennant flag of red or blaze material, or a size not less than 12 inches by nine inches, at a height of not less than four feet from the ground level, at any time when the vehicle is operated on public streets; and

(6) Running lights or reflective material at least 16 square inches on each side, forward of the handlebar so as to reflect or beam light at a 90-degree angle.

(Code 2015, § 7.06(10); Ord. of 11-8-1976)

Secs. 16-73—16-102. Reserved.

ARTICLE IV. UTILITY-TERRAIN VEHICLES AND MINI-TRUCKS

Sec. 16-103. Purpose and intent.

The purpose of this article is to provide reasonable regulations for the use of specialized vehicles on public property within the city. This article is not intended to allow what the state statutes prohibit or to prohibit what the state statutes expressly allow. It is intended to ensure public safety and prevent public nuisance.
(Code 2015, § 7.10(1); Ord. of 9-12-2011; Ord. of 10-22-2012)

Sec. 16-104. Definitions.

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

Driver means the person driving and having physical control over the utility-terrain vehicle or mini-truck.

Mini-truck means, as defined in M.S.A. §169.011, subd. 40(a), as may be amended from time to time, a motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in 49 CFR 571.101 to 571.404 and successor requirements.

Utility-terrain vehicle means a motorized floatation-tired vehicle with at least three but not more than six low pressure tires that has an engine displacement of less than 960 cubic centimeters and total dry weight of less than 1,800 pounds and side by side seating.
(Code 2015, § 7.10(2); Ord. of 9-12-2011; Ord. of 10-22-2012)

Sec. 16-105. Operation.

(a) No person shall operate a utility-terrain vehicle or mini-truck on streets, alleys, sidewalks or other public property without obtaining a permit as provided herein. Utility-terrain vehicles may only be used for business or commercial purposes.

(b) Authorized city staff may operate city-owned utility-terrain vehicles and mini-trucks without obtaining a permit within the city on city streets, sidewalks, trails, rights-of-way, and public property. City-owned vehicles may be operated at any time and on any state or federal highway, city street, sidewalk, trail, right-of-way or public property when conducting city business.
(Code 2015, § 7.10(3); Ord. of 9-12-2011; Ord. of 10-22-2012)

Sec. 16-106. Permits.

(a) Every application for a permit shall be made on a form supplied by the city and shall contain all of the following information:

(1) The name, address and date of birth of the applicant.

(2) The nature of the applicant's physical handicap, if any.

(3) Model name, make, year and number of the utility-terrain vehicle or mini-truck.

(4) Current driver's license number or a statement as to why the applicant does not have a current license.

(5) Proof of insurance, including the company name, policy number, effective dates and coverage.

(6) Other information as the city may require.

(b) The annual permit fee shall be established by council resolution and provided in the city fee schedule.

(c) Permits shall be granted for a period of one calendar year beginning on January 1 and ending on December 31 and may be renewed annually.

(d) No permit shall be granted or renewed unless the following conditions are met:

(1) The applicant must demonstrate that he or she currently holds a valid driver's license to operate a mini-truck.

(2) The applicant may be required to submit a certificate signed by a physician that the applicant is able to safely operate a utility-terrain vehicle on the roadways designated.

(3) The applicant must provide evidence of insurance in compliance with the provisions of the state statutes concerning insurance coverage for the utility-terrain vehicle or mini-truck.

(4) The applicant has not had his or her driver's license revoked as the result of criminal proceedings.

(Code 2015, § 7.10(4); Ord. of 9-12-2011; Ord. of 10-22-2012)

Sec. 16-107. Conditions of operation.

(a) The driver shall have a valid permit pursuant to section 16-106 and shall be at least 18 years of age. The permit must be affixed and displayed on the rear of the vehicle adjacent to the slow-moving vehicle placard.

(b) Utility-terrain vehicles shall display the slow-moving vehicle emblem provided for in M.S.A. § 169.045, as it may be amended from time to time, when operated on designated roadways.

(c) Utility-terrain vehicles and mini-trucks shall be equipped with a rearview mirror to provide the driver with adequate vision from behind as required by M.S.A. § 169.70, as it may be amended from time to time.

(d) Every person operating a utility-terrain vehicle or mini-truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S.A. ch. 169, as it may be amended from time to time, except when these provisions cannot reasonably be applied to utility-terrain vehicles or mini-trucks and except as otherwise specifically provided in M.S.A. § 169.045(7).

(e) The number of occupants on the utility-terrain vehicle or mini-truck shall not exceed the design occupant load.

(f) No operation of a utility-terrain vehicle and mini-truck shall be allowed on private property without the consent of the owner, or on any city sidewalk, trail or park.

(g) A mini-truck may be operated under permit on roadways within the city if it is equipped with all the following:

(1) At least two headlamps;

(2) At least two taillamps;

(3) Front and rear turn signal lamps;

(4) An exterior mirror mounted on the driver's side of the vehicle and either:

a. An exterior mirror mounted on the passenger's side of the vehicle; or

b. An interior rearview mirror;

(5) A windshield;

(6) A seat belt for the driver and front passenger; and

(7) A parking brake.

(Code 2015, § 7.10(5); Ord. of 9-12-2011; Ord. of 10-22-2012)

Sec. 16-108. Suspension, revocation or denial of permit.

A permit may be suspended, revoked or denied at any time by the city if the permit holder has violated any of the provisions of this article or of M.S.A. ch. 169, or if there is evidence the permit holder cannot safely operate the utility-terrain vehicle or mini-truck on the designated roadways. The permit holder may file a written request with the city clerk for a hearing within five days of receiving a notice that the permit is being suspended or revoked. Any notice of suspension or revocation of the permit must be provided to the permit holder at least five days before the effective date of the suspension or revocation; except that a police officer may temporarily suspend a permit without notice if, in the police officer's professional judgment, public safety would otherwise be endangered.

(Code 2015, § 7.10(6); Ord. of 9-12-2011; Ord. of 10-22-2012)

Sec. 16-109. Violation; penalty.

(a) Any person, firm or corporation violating the terms of this article shall lose their permit to operate a utility-terrain vehicle or mini-truck in the city.

(b) Any person, firm or corporation who operates a utility-terrain vehicle or a mini-truck within the city without the required permit shall be guilty of a misdemeanor.
(Code 2015, § 7.10(7); Ord. of 9-12-2011; Ord. of 10-22-2012)

Secs. 16-110—16-131. Reserved.

ARTICLE V. DOCKLESS SCOOTERS

Sec. 16-132. Definitions.

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

Dockless electric scooter means a motorized standing scooter with tandem wheels that is available for rental through a rental system that does not require the installation of docking stations in the public right-of-way.

Impound means removal of a dockless electric scooter to a storage facility or designated impoundment location by the city or a licensed contractor in response to authorization from a police officer, parking monitor, or other city employee designated by the director of public safety or city manager to act under this article.

Operating area means the areas designated by the city, which shall be identified on a map and provided to the permittee. The permittee or the SATS acting on behalf or under agreement with the permittee shall use the city right-of-way within the operating area on a nonexclusive basis, solely for the purpose of placement of dockless electric scooters for rental.

Rebalance means the moving of dockless electric scooters from an area of low demand to an area of high demand within the operating area.

Shared active transportation system (SATS) means a business that provides one or more dockless electric scooters for rentals where the dockless electric scooters are intended to be parked in a device operating area, but not connected to a dedicated docking station, when not rented by a customer.
(Code 2015, § 6.01; Ord. of 2-28-1977; Ord. No. O-2023-0626-1, § 6.01, 6-26-2023)

Sec. 16-133. Permit procedure.

(a) *Permit required.* It is unlawful for SATS to place dockless electric scooters in the city's right-of-way, or other city-approved property, without a dockless electric scooter operating permit obtained from the city clerk. If no permit has been obtained, then any dockless electric scooter placed on city property, including in the city's right-of-way, violates this chapter, may be impounded, and may be deemed a nuisance.

(b) *Qualifications.* To obtain a permit, the applicant must be licensed as a postsecondary institution of higher education by the office of higher education and have a campus within the city and have executed a contract with a SATS and be able to supply the city clerk with proof of the contract with the SATS at the time of submission of the permit application.

(c) *Application.* Applications for an annual dockless electric scooter operating permit shall be on a form provided by the city and shall include all associated fees. The application shall include:

(1) A description of how complaints of improperly parked or abandoned dockless electric scooters will be handled;

(2) A description of how the applicant or its contracted SATS will respond to notification of safety or operation concerns of dockless electric scooters;

(3) A maintenance plan for the dockless electric scooters if not addressed by the agreement between applicant and SATS attached to the permit; and

(4) A description of the customer education and outreach plan for proper use of dockless electric scooters.

(d) *Term of permit; renewal.* All permits shall expire on December 31 of each year and are renewable subject to the same standards of review as for the initial permit.

(e) *Notice of denial, suspension, revocation, or nonrenewal; administrative review.* The city may determine that a dockless electric scooter operating permit should be denied, revoked, or renewal denied for the reasons set forth below. The city shall provide written notice of the denial or revocation of a permit or renewal to the applicant detailing the reason for the denial or revocation of the permit, and a statement informing the applicant of its right to appeal the denial or revocation of its permit through the appeal process set forth in chapter 2, article III, division 2.

(f) *Grounds for denial of issuance or renewal.* The application shall be denied, and no permit shall be issued, if the city finds that:

(1) Any statement made in the application is incomplete, inaccurate, misleading, or false.

(2) The applicant has not complied with this chapter or has had a history of noncompliance with the provisions of this chapter.

(3) The applicant no longer meets the application criteria for a permit under this article.

(g) *Grounds for revocation.* The city may revoke a permit due to the applicant's failure to comply with permit requirements, this chapter, or any applicable federal, state, or local law or regulation. Permits may also be revoked for one or more of the following reasons:

(1) Poor customer response or service by the SATS.

(2) Noncompliance with geo-fencing zone and the approved operating areas defined herein.

(3) The applicant no longer meets the criteria for a permit under this article.

(4) The use of or manner of parking of dockless electric scooters pose an unreasonable risk to the health, safety, and welfare of the general public.

(5) Nonpayment of monies owed to the city in accordance with this Code and the permit.

(h) *Transfer prohibited.* No permit issued pursuant to this article shall be transferable to another person, firm, or corporation.
(Code 2015, § 6.19(1); Ord. No. O-2023-0626-1, § 6.19(1), 6-26-2023)

Sec. 16-134. Standards and specifications.

(a) Dockless electric scooters must meet state and federal requirements.

(b) Each dockless electric scooter must be well maintained pursuant to a maintenance plan submitted with the application or in the SATS agreement attached to the permit and be in good, safe riding condition.

(c) Each dockless electric scooter allowed by permit under this article must be equipped with active locating system technology capable of location within ten feet.

(d) Permittees and any contracting SATS shall not deploy a dockless electric scooter that is inoperable or unsafe to operate.

(e) Permittees either independently or through its contracting SATS shall remove inoperable dockless electric scooters within 24 hours of notice of the location of any inoperable dockless electric scooter.

(f) Each dockless electric scooter must include contact information for the SATS and the local agent, if different.
(Code 2015, § 6.19(2); Ord. No. O-2023-0626-1, § 6.19(2), 6-26-2023)

Sec. 16-135. Permit fees.

Annual permit fees for each SATS permit shall be established by resolution of the city council, provided in the city fee schedule, and shall not be prorated or refundable.
(Code 2015, § 6.19(3); Ord. No. O-2023-0626-1, § 6.19(3), 6-26-2023)

Sec. 16-136. Operating regulations, parking and deployment.

(a) The city identifies the operating area and the speed restriction for that or those areas with the assistance of applicant and the applicant's contracted SATS. Dockless electric scooters are not allowed in any area outside of the operating area.

(b) The permittee shall ensure STATS mobile app and website, as well as its own website, will include the following information about dockless electric scooters:

(1) How and where to park a dockless electric scooter in the manner required by this article. Dockless electric scooters shall be upright when parked.

(2) Requirements that persons meet the minimum age requirements as an operator.

(3) Persons operating a dockless electric scooter must follow applicable traffic laws.

(4) Motorized foot scooters are prohibited on city sidewalks.

(c) If requested by the city, photographic verification that dockless electric scooters were or are parked in accordance with this article shall be provided.

(d) The permittee, either independently or through its contracted SATS or the local agent, shall remove or re-park every one of its dockless electric scooters that is parked in violation of the permit or this Code and in accordance with the following:

(1) Between 6:00 a.m. to 6:00 p.m. on weekdays, not including legal holidays, the permittee shall remove or re-park within two hours of receiving notice from any person via mobile or other web application or telephone number.

(2) During all other times, the permittee shall remove or re-park within 12 hours of receiving notice from any person via mobile or other web application or telephone number.

(e) The permittee, either independently or through its contracted SATS, shall provide the city with the name of its local agent and that person's contact information, so that the city can order a rebalancing. The city has the right to determine specific locations for rebalancing dockless electric scooters, as well as times when the dockless electric scooters must be removed from operating areas.

(f) The permittee shall provide a 24-hour telephone number for customers and the city to report safety concerns and complaints, and to ask questions.

(g) Dockless electric scooters may not be parked in a manner that would impede normal and reasonable pedestrian access on a sidewalk or in any manner that would reduce the minimum clear width of a sidewalk to less than 48 inches.

(h) Dockless electric scooters may not be parked in a manner that would impede vehicular traffic on a street or alley.

(i) Dockless electric scooters may not be parked in a manner that would impose a threat to public safety or security.

(j) Dockless electric scooters may not be secured, attached, or connected to a bicycle rack, or any other immovable object on the right-of-way, unless the object is located in the right-of-way for the purposes of docking dockless electric scooters.
(Code 2015, § 6.19(4); Ord. No. O-2023-0626-1, § 6.19(4), 6-26-2023)

Sec. 16-137. Impounding authorized.

(a) A dockless electric scooter may be immediately impounded by any police officer or duly authorized city employee because:

(1) The dockless electric scooter was found improperly attached in violation of this article.

(2) The dockless electric scooter was found unattended and blocking traffic or public infrastructure, interfering with maintenance of the right-of-way or parkland, or otherwise compromising public safety.

(3) The dockless electric scooter is part of an unauthorized shared transportation system.

(4) The dockless electric scooter is in violation of one or more of the terms of this article.

(b) Not more than 72 hours after impounding a dockless electric scooter, the city shall provide notice to the permittee and, if contact information available, the permittee's contracted SATS. If the dockless electric scooter is redeemed prior to the notice, or if the city is unable to identify the permittee, then notice need not be sent. Saturdays, Sundays, and city holidays are to be excluded from the calculation of the 72-hour period.

(c) All dockless electric scooters impounded under this section are subject to an impound fee sufficient to offset the city's costs of enforcement and storage for each such dockless electric scooter, as provided in the city fee schedule.

(d) Any dockless electric scooter coming into the possession of the city and remaining unclaimed for a period of at least 60 days may be sold at public auction or sale following reasonable notice.

(e) Each permittee shall compensate the city for the costs incurred by the city in removing and storing its dockless electric scooters that have been improperly parked or rebalanced, including under the circumstances where a permittee fails to remove its dockless electric scooters in violation of its permit or in case its permit is terminated or otherwise not in effect.
(Code 2015, § 6.19(5); Ord. No. O-2023-0626-1, § 6.19(5), 6-26-2023)

Sec. 16-138. Change in operating area, limited speed, and restrictions of use.

City staff may change the operating area, limited speed, or other area restrictions at any time. If any changes are made to the operating area, speed or other restriction, the city will notify any and all permittees under this article, and the changes must be reflected with the software associated with operation of the dockless electric scooters within five working days.
(Code 2015, § 6.19(6); Ord. No. O-2023-0626-1, § 6.19(6), 6-26-2023)

Sec. 16-139. Weather-related expectations.

Each permittee, either independently or through its contracted SATS, shall remove and secure its entire fleet of dockless electric scooters from operating areas for all time periods for which the National Weather Service or its successor agency forecasts:

(1) Sustained winds of 40 miles per hour or higher for one hour or more.

(2) Wind gusts of 58 miles per hour or higher for any duration.

(3) Accumulating snow fall over one inch.
(Code 2015, § 6.19(7); Ord. No. O-2023-0626-1, § 6.19(7), 6-26-2023)

Sec. 16-140. Insurance/indemnification requirements.

(a) At all times during the life of a permit granted under this article, a permittee shall maintain insurance in effect and provide proof of such insurance. The permittee shall have and shall require any SATS vendor it contracts with to have commercial general liability insurance of at least $1,500,000.00 per occurrence for bodily injury, damages, or death per occurrence; $1,500,000.00 per occurrence for property damage; and $2,000,000.00 annual aggregate.

(b) Permittee shall provide proof of insurance that it has and, if applicable, its contracted SATS vendor has commercial automobile liability insurance of at least $2,000,000.00 each accident, combined single limit for bodily injury and property damage, including owned, non-owned and hired auto coverage, as applicable.

(c) Every permittee shall defend and indemnify the city from and against all claims and liabilities that arise from the acts and omissions of the permittee, their agents, or contracted SATS, and its customers in device operating areas, to the extent the acts and omissions relate to the operation of dockless electric scooters.

(d) Each permittee shall be responsible for the costs of repair to public property damaged by its customers' use of its dockless electric scooters.
(Code 2015, § 6.19(8); Ord. No. O-2023-0626-1, § 6.19(8), 6-26-2023)

Sec. 16-141. Data sharing and reporting.

(a) A permittee shall cooperate with the city in the collection and analysis of aggregated data concerning its operations and understands that the data is subject to the requirements of M.S.A. ch. 13.

(b) A permittee shall provide, upon request, a report to the city that includes:

(1) Total number of rides for the previous month.

(2) Total number of vehicles in service for the previous month.

(3) Number of rides per vehicle per day.

(4) Anonymized aggregated data taken from the dockless electric scooters in the form of heat maps showing routes, trends, origins, and destinations.

(5) Anonymized trip data taken from the dockless electric scooters that includes the origin and destination, trip duration, and date and time of trip.
(Code 2015, § 6.19(9); Ord. No. O-2023-0626-1, § 6.19(9), 6-26-2023)

Secs. 16-142—16-165. Reserved.

ARTICLE VI. PARKING

Sec. 16-166. General restrictions.

It is unlawful for any person, as driver or operator of a vehicle, or as the registered owner of a vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any such vehicle in any of the following places:

(1) Upon a public sidewalk;

(2) Upon any public street within four feet of the radius point, taper point or the point on a curb or curbline at which such curb or curbline becomes part of a public or private curb cut of driveway, or between the two such points existing with respect to a given curb cut or driveway;

(3) Upon any public street within any intersection;

(4) Upon any public street within ten feet of any fire hydrant;

(5) Upon any public street on any crosswalk;

(6) Upon any public street within 20 feet of a crosswalk at any intersection or within 30 feet of an intersection at which there is no crosswalk;

(7) Upon any public street within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of the roadway;

(8) Upon any public street within 50 feet of the nearest rail of the railroad crossing;

(9) Upon any public street within 20 feet of a driveway entrance to any fire station, and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance when such restriction is properly signposted;

(10) Upon any public street alongside or opposite any street excavation or obstruction when such stopping, standing or parking may obstruct traffic;

(11) Upon any public street on the roadway side of any such vehicle stopped or parked upon such street;

(12) Upon any public street upon any bridge or other elevated structure;

(13) Upon any public street at any place where official signs prohibit parking, standing or stopping;

(14) Upon any boulevard, as defined in section 14-148, except when such parking, standing or stopping is authorized by the city council;

(15) In any public alley right-of-way other than temporary for the purpose of and while actually engaged in receiving or discharging any passenger or item, provided that any such parking, standing or stopping shall not be unlawful if such parking, standing or stopping is necessary to comply with any direction of a police officer or traffic control device.

(16) On any part of a "front yard," as defined in section 10-2, except on a hard surfaced "parking space," as defined in section 10-2, or on a legally existing gravel surfaced parking space which was used for parking before November 10, 1975. This prohibition against parking in the front yard except on a hard surfaced parking space shall not apply during the period that a snow emergency is in effect in the city pursuant to section 16-171.

(17) Upon any public street within ten feet of a cluster box unit (CBU) between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Saturday. A CBU shall be defined as a delivery center for mail with a group of individually keyed mailboxes, a separate shared box for parcels and a slot for outgoing mail, serving a group of residences or businesses.

(Code 2015, § 8.01; Ord. of 6-13-1977; Ord. of 1-22-1979, § 1; Ord. of 6-25-1979; Ord. of 12-12-1983; Ord. of 3-27-1989; Ord. of 5-23-1994; Ord. of 7-13-2009)

Sec. 16-167. Parallel parking.

Except in such places where angle parking is specifically designated by curb marking or signposting it is unlawful for any person upon a public street, as driver or operator of a vehicle, or as the registered owner of a vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any such vehicle, except as follows:

(1) Upon a two-way roadway having an adjacent curb, the vehicle shall be parked or stopped in such a manner that the wheels thereof on the right or passenger side are parallel with and within 12 inches of the right-hand curb, and, in the event painted parking stall markings exist on the curb or the street, such vehicle shall be parked or stopped within such markings;

(2) Upon a one-way roadway, having an adjacent curb, the vehicle shall be parked or stopped in such a manner that the wheels thereof on the right or passenger side are parallel with and within 12 inches of the left-hand curb.

(Code 2015, § 8.02; Ord. of 6-13-1977; Ord. of 1-22-1979, § 2)

Sec. 16-168. Angle parking.

In any place upon a public street or in a public parking facility where angle parking is designated by curb marking or signposting, it is unlawful for any person, as driver or operator of a vehicle, or as the registered owner of a vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any such vehicle, except with the front wheel thereof touching the curb within any parking stall lines painted on the curb or street.

(Code 2015, § 8.03; Ord. of 6-13-1977; Ord. of 1-22-1979, § 3)

Sec. 16-169. Parking on street without curb.

It is unlawful for any person, as driver or operator of a vehicle, or as the registered owner of a vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any such vehicle upon any street not having a curb unless such vehicle is stopped or parked parallel with on the extreme right portion of the pavement or the improved or main-traveled portion of the street.

(Code 2015, § 8.04; Ord. of 6-13-1977; Ord. of 1-22-1979, § 4)

Sec. 16-170. Parking on unmetered street.

Parking in any parking stall upon any public street not controlled by a parking meter shall be limited as follows:

(1) *Continuous parking.* It is unlawful for any person, as driver or operator of a vehicle, or as the registered owner of a vehicle, to park, stop or leave standing, or cause, allow or permit to be

parked, stopped or left standing, whether knowingly or unknowingly, any such vehicle in a given place upon any public street for a period in excess of 24 continuous hours. This includes any vehicle that is covered with snow that has a windrow of snow around or near it such that it impedes the safe removal of snow. A windrow of snow is any snow that has been deposited by a mechanical process. Law enforcement vehicles and other emergency vehicles are excluded from the provisions of this subsection.

(2) *Limited parking zones.* The city manager may, when authorized by the city council, designate any street, or any portion thereof as a five-minute, ten-minute, 15-minute, 30-minute, one-hour, two-hour, four-hour, six-hour or eight-hour limited parking zone and shall cause any such zone to be designated by signposting. It is unlawful for any person, as driver or operator of a vehicle, or as the registered owner of a vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any such vehicle in any limited parking zone for a continuous period of time in excess of the period of time specified in the signposting of such zone between the hours of 8:00 a.m. and 6:00 p.m. on any weekday. The limited parking zones on Riverfront Drive and on Hickory Street adjacent to the Midwest Wireless Civic Center shall be enforceable at any time. Vehicles moved within or from one limited parking zone to another, must be moved at least 100 yards from the previous location.

(Code 2015, § 8.05; Ord. of 6-13-1977; Ord. of 2-25-2002; Ord. of 6-23-2003; Ord. of 2-11-2013; Ord. No. 20-1109-8, § 8.05(1), 11-9-2020)

Sec. 16-171. Emergency parking.

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

Emergency means any condition upon any public street, including the presence of snow, freezing rain, sleet, ice or other phenomenon, which condition creates or is likely to create any hazardous road condition or impedes or is likely to impede the free movement of traffic, when such condition shall have been declared by the city manager, or a designated agent of the city manager.

(b) *Declaration.* Upon the existence of an emergency, as defined herein, the city manager, or a designated agent of the city manager may, in the discretion of such person, declare that an emergency exists, whereupon such person shall notify any radio or television station having facilities within or near the city, and request that such media cooperate with the city in giving notice of such emergency to the community. The emergency regulations set forth below shall become effective two hours after such notice has been given by the city to such news media.

(c) *Unlawful acts.* During an emergency, it is unlawful for any person, as driver or operator of a vehicle, or as the registered owner of such vehicle, to park, stop or leave standing, or cause, allow, or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any such vehicle upon any street until the conclusion of the declared parking emergency.

(Code 2015, § 8.06; Ord. of 2-9-1998; Ord. No. 20-1109-8, § 8.06(3), 11-9-2020)

Sec. 16-172. Seasonal no parking.

(a) *When parking is prohibited.* During the period from November 1 to April 1 of each year, the city manager is authorized to enforce no parking on streets or sides of streets in areas where signs indicating "No Parking November 1 to April 1" are permanently posted year round. Any changes to streets involved shall be done by council resolution.

(b) *Unlawful acts.* It shall be unlawful for any person, as driver or operator of a vehicle, or as the registered owner of a vehicle, to park, stop or leave standing or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any vehicle upon any public street where no parking signs have been erected pursuant to subsection (a) of this section.
(Code 2015, § 8.065; Ord. of 7-12-1982; Ord. of 11-25-1996; Ord. of 9-26-2011)

Sec. 16-173. Temporary restricted parking.

It is unlawful for any person, as driver or operator or as the registered owner of a vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any vehicle upon a public street where temporary restricted parking signs have been posted. Vehicles left in areas which have been posted as temporary restricted parking for more than 12 hours after the posting may be towed.
(Code 2015, § 8.07; Ord. of 11-13-2007)

Sec. 16-174. Truck parking.

(a) *Detached trailer.* It is unlawful for any person, as driver or operator of a semi-trailer, or as the registered owner of a semi-trailer, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, a semi-trailer not attached to a truck or truck tractor upon any public street, municipally owned parking lot or parking facility, or other public property.

(b) *Residential district.* It is unlawful for any person, as driver or operator of a semi-trailer or as the registered owner of a semi-trailer, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any such semi-trailer, whether or not attached to a truck tractor, within any area zoned as a residential district, except for the purpose of and while engaged in the loading or unloading of such semi-trailer.

(c) *Meter restrictions.* It is unlawful for any person, as driver or operator of a vehicle, having a gross weight, as defined in M.S.A. ch. 168, in excess of 7,000 pounds, or as the registered owner of such vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, or loading or unloading any such vehicle within any metered parking space on any public street or in any municipally owned parking facility between 8:00 a.m. and 6:00 p.m. on any weekday, Monday through Friday, inclusive; except for a period of not more than 30 minutes for the purpose of and while engaged in loading or unloading such vehicle.
(Code 2015, § 8.08; Ord. of 6-13-1977)

Sec. 16-175. Loading zone.

(a) *Creation.* The city council may designate any portion of any public street as a loading zone for the purpose of loading or unloading merchandise from a vehicle utilized in the transport or delivery of any wares, goods or commodities. Any vehicle employed for such purpose shall display thereon the name of the company employing such vehicle, either by means of a permanent marking on such vehicle, or by means of a sign containing the word "delivery" and the name of such company, which sign shall be placed near the front windshield and on the curbside of the vehicle.

(b) *Public loading zone.* Upon the creation by the city council of any public loading zone, the city manager shall cause such loading zone to be designated and signposted as such by means of one sign, consisting of green lettering and a green border upon a white background, and containing the words "No Parking, Commercial Loading Zone," along with green paint along the curb. Vehicles parking in loading zones will be limited to ten minutes of inactivity during continuous active loading/unloading and must have vehicle hazard lights flashing. It is unlawful for any person, as driver or operator of a vehicle, or as the registered owner of such vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, such vehicle in any such designated public loading zone unless such vehicle is employed for the purpose of and engaged in the loading or unloading of merchandise or items described in subsection (a) of this section.
(Code 2015, § 8.09; Ord. of 6-13-1977; Ord. of 10-12-2009)

Sec. 16-176. Lots and ramps.

(a) *Parking restrictions.* The city council may limit or restrict the size, class or type of vehicle permitted to be parked within any municipally owned parking lot, ramp or facility, the hours of parking in any such facility or the permitted manner by which any vehicle may be parked therein, provided that any such limitation or restriction shall be signposted in the area to which the limitation or restriction shall apply.

(b) *Parking charges.* Parking charges or rates for parking in any municipally owned parking lot, ramp or facility shall be prescribed by the city manager in conformance with existing ordinances and regulations and may vary between locations.

(c) *Unlawful acts.* It is unlawful for:

(1) Any person to drive any vehicle in a municipally owned parking lot, ramp or facility in a direction opposite that direction designated by one-way signs or arrows;

(2) Any person, as driver or operator of a vehicle, or as the registered owner of such vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, in any municipally owned parking lot, ramp or facility, any such vehicle backed into any parking stall or space or contrary to any parking restriction or limitation signposted therein;

(3) Any person, as driver or operator of a vehicle, or as the registered owner of such vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, any such vehicle in any municipally owned parking lot or

ramp, which parking lot or ramp is not regulated by parking meter devices, unless, upon exit therefrom, payment of any parking charge due is made according to posted parking rates.
(Code 2015, § 8.10; Ord. of 6-13-1977; Ord. of 1-22-1979, § 6)

Sec. 16-177. Parking meters.

(a) *Installation and use.* To control and regulate parking upon certain streets and public parking lots or facilities, mechanical devices commonly known as parking meters may be installed on or near the curb of any such street or any parking space in any such lot or facility, at such locations as may be designated by the city council.

(b) *Parking space.* Lines or markings painted upon any curb or street upon any public parking lot or facility, near or adjacent to any parking meter shall designate the parking stall or space to which such meter corresponds. It is unlawful for any person, as driver or as the registered owner of such vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, such vehicle, unless such vehicle shall be wholly contained within a single such parking space.

(c) *Prohibition.* It is unlawful for any person, as driver or operator of a vehicle, or as the registered owner of such vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, such vehicle within a metered parking space or stall upon any public street or in any municipally owned parking lot, ramp or facility, between the hours of 9:00 a.m. and 5:00 p.m. on any weekday, Monday through Friday, inclusive, and on Saturday at any time during which the meter device regulating such parking space or stall displays the notation "expired," provided that the prohibition set forth in this subsection shall not apply to any vehicle so parked on any New Year's Day (January 1), Memorial Day, Independence Day (July 4), Labor Day, Thanksgiving Day, or Christmas Day (December 25).

(d) *Charges.* The city manager shall establish parking meter charges which charges may be amended by the city manager and may vary with the location of a given meter. The parking charge, the coin denominations accepted by the meter, and the time included for each coin denomination shall be set forth on each parking meter.

(e) *Slugs.* It is unlawful to deposit or cause to be deposited in any parking meter any slug, device or metallic substitute for a legal coin.
(Code 2015, § 8.12; Ord. of 6-13-1977)

Sec. 16-178. Travel trailer parking.

It is unlawful for any person, as driver or operator of a travel trailer as defined in M.S.A. ch. 171, or as the registered owner of such vehicle, to park, stop or leave standing, or cause, allow or permit to be parked, stopped or left standing, whether knowingly or unknowingly, such vehicle, upon any public street for a period of time of more than 12 continuous hours.
(Code 2015, § 8.13; Ord. of 6-13-1977)

Sec. 16-179. Parking privileges for persons with disabilities.

Any physically disabled person, as defined in M.S.A. § 169.345, who displays prominently upon the automobile parked by such person or under the direction and for the use of such person, the distinguishing certificate or insignia for which M.S.A. § 169.345 provides shall be entitled to courtesy in the parking of such automobile and shall be relieved of any liability with respect to the parking regulations set forth in this article, except such regulations as are set forth in section 16-166.
(Code 2015, § 8.14; Ord. of 6-13-1977)

Sec. 16-180. Special service district established.

(a) The city is authorized to establish a special service district, to provide parking and maintenance for customers, clients and business owners within the district. The cost of providing the maintenance services and of repairing, replacing, and maintaining the facilities to provide this service will be paid through fees charged to the business owners located within the special service district.

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

Fee means the proportionate share of the cost of providing the parking services, to be collected from each business owner within the special service district.

Special service district means the property bounded by Warren Street to Hickory Street and South Second Street to South Riverfront Drive.
(Code 2015, §§ 18.01, 18.02)

Sec. 16-181. Moving or impounding vehicles.

In the event any police or city inspector finds any unattended vehicle standing upon any street, alley or municipally owned parking lot, ramp or facility in violation of any provision of article VI of this chapter, such officer is authorized to move such vehicle or require the driver of other person having charge of such vehicle to move such vehicle to a position in compliance with the law.
(Code 2015, § 8.11(1); Ord. of 5-10-1982)

Sec. 16-182. Penalty.

Except as may be otherwise specifically provided in this chapter, any person who violates any provision of this article shall be guilty of a petty misdemeanor.
(Code 2015, § 8.15; Ord. of 6-13-1977)

Chapter 17

UTILITIES

Article I. In General

Sec. 17-1. Definitions.
Sec. 17-2. Franchise agreements.
Sec. 17-3. Ownership of municipal utilities.
Sec. 17-4. Right of entry.
Sec. 17-5. Prohibited acts.
Secs. 17-6—17-28. Reserved.

Article II. Water

Sec. 17-29. Curb stops and service line location and maintenance.
Sec. 17-30. Private wells.
Sec. 17-31. Fire suppression system.
Sec. 17-32. Prohibited access and use.
Sec. 17-33. Water during construction.
Sec. 17-34. Water conservation.
Secs. 17-35—17-56. Reserved.

Article III. Wastewater

Division 1. Generally

Sec. 17-57. Collection system rules and regulations.
Sec. 17-58. Pre-treatment requirement.
Sec. 17-59. Termination of service.
Sec. 17-60. Drain elevation.
Sec. 17-61. Grease, oil and sand interceptors.
Sec. 17-62. Standard Methods to be used.
Sec. 17-63. Installation of sanitary facilities.
Sec. 17-64. Sanitary sewer service line construction.
Sec. 17-65. Unlawful acts.
Sec. 17-66. Limitations on wastewater strength.
Sec. 17-67. Accidental and slug discharges.
Sec. 17-68. Industrial wastewater discharge permit.
Sec. 17-69. Pretreatment compliance with standards.
Sec. 17-70. Confidential information.
Sec. 17-71. Prohibitive discharges.
Secs. 17-72—17-100. Reserved.

Division 2. Enforcement

Sec. 17-101. Collection enforcement.
Secs. 17-102—17-130. Reserved.

Article IV. Stormwater

Sec. 17-131. Installation of drainage connections.
Sec. 17-132. Noncompliance.
Sec. 17-133. Sump pump discharge connection requirements.
Sec. 17-134. Public nuisance.
Sec. 17-135. Municipal separate stormwater system or MS4.
Secs. 17-136—17-153. Reserved.

Article V. Solid Waste

Sec. 17-154. Service established.
Sec. 17-155. Rules and regulations.
Secs. 17-156—17-178. Reserved.

Article VI. Service Connections and Equipment

Sec. 17-179. Application for service; connection and sale of service.
Sec. 17-180. Connection standards.
Sec. 17-181. Services to consumers outside the city.
Sec. 17-182. Connection charge.
Sec. 17-183. Abandoned service.
Sec. 17-184. Service connection prior to paving and repaving.
Sec. 17-185. Water service line construction.
Sec. 17-186. Water service pipe and fittings.
Sec. 17-187. Financial responsibility of service lines.
Sec. 17-188. Meters.
Sec. 17-189. Remote water meter reading device.
Sec. 17-190. Termination or suspension of service.
Secs. 17-191—17-218. Reserved.

Article VII. Accounts, Rates, Billing, and Collection

Division 1. Generally

Sec. 17-219. Established by council.
Sec. 17-220. Certification cycles.
Sec. 17-221. Water rates and fees.
Sec. 17-222. Wastewater rates and fees.
Sec. 17-223. Refuse collection charges.
Sec. 17-224. Stormwater drainage utility.
Sec. 17-225. Street lighting system utility.
Sec. 17-226. Dishonored check fee.
Sec. 17-227. Customer statements for utility charges.
Sec. 17-228. Change in ownership.
Sec. 17-229. Temporary service interruption at owner's request.
Secs. 17-230—17-251. Reserved.

Division 2. Delinquent Accounts

Sec. 17-252. Regulations on past due collection and nonpayment of services.
Sec. 17-253. Other remedies.

ARTICLE I. IN GENERAL

Sec. 17-1. Definitions.

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

Biosolids means the nutrient rich organic, treated, and tested residuals from the wastewater treatment process that meet federal and state standards for beneficial reuse as a fertilizer and as a soil conditioner.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning immediately outside the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection.

Capital expense means an expense that takes place that is greater than $10,000.00 and has a life expectancy of greater than five years.

Carbonaceous biochemical oxygen demand (CBOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter, in the presence of a nitrification inhibitor, under standard laboratory procedures in five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).

Compatible pollutant means pollutants identified through testing by the public utility deemed capable of being treated at the WRRF based on the treatment facilities design to treat such pollutants to a degree which complies with effluent concentration limits imposed by the NPDES/SDS permit.

Consumer means refers to any user of a utility.

Debt service means revenue to be used solely for retirement of outstanding debts of the city's works.

Domestic strength wastewater means wastewater that is primarily introduced by residential users with a BOD_5 concentration not greater than 260 mg/L and a suspended solids (TSS) concentration not greater than 280 mg/L.

Easement means an acquired legal right for the specific use of land owned by others.

EPA means the Federal Environmental Protection Agency.

Garbage means and includes every accumulation of animal, vegetable or other matter that attends the preparation, consumption, display, dealing in or storage of meat, fish, fowl, birds, etc., including the cans, containers, or wrappers wasted along with such materials, and all other wastes resulting from the handling, storage, and sale of produce.

General municipal flow means wastes from residential users and from the sanitary conveniences of multiple dwellings, commercial buildings, institutions, and industrial facilities. General municipal

flow based on the design of the wastewater treatment facility is further defined as flows containing five-day BOD_5 concentrations no greater than 260 milligrams per liter (mg/L) and total suspended solids (TSS) concentrations no greater than 280 milligrams per liter (mg/L).

General pretreatment regulations means the general pretreatment regulations for existing and new sources of pollution promulgated by the EPA under section 307(b) and (c) of the Act and found at 40 CFR pt. 403.

Household refuse includes such items as garbage, swill, sweepings, cleanings, trash litter, solid wastes, combustible trash, including, but not limited to, paper, cartons, boxes, barrels, wood, furniture, bedding, noncombustible trash, including, but not limited to, metals, tin cans, metal furniture, dirt, small quantities of rock and concrete, glass, crockery, and other mineral wastes; provided, refuse shall not include earth and waste from building operations, nor shall it include wastes from industrial processes and manufacturing operations.

Illicit discharge means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from firefighting activities.

Indirect discharge means the introduction of pollutants or wastes into the WRRF from any nondomestic source regulated under section 301(b), (c), or (d) of the Act. Any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, which is categorized in divisions A, B, D, E, and I.

Industrial waste means solid, liquid, or gaseous wastes, excluding domestic waste, resulting from any industrial, manufacturing, commercial, institutional, or business activity, or from the development, recovery, or processing of a natural resource.

Industrial wastewater discharge permit means a permit issued by the city to an industrial user authorizing them to use the WRRF as established herein.

Infiltration means water entering the wastewater system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections, and manhole walls.

Inflow means water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections from storm drains, catchbasins, surface runoff, street wash waters or drainage.

Industrial user means any person who discharges industrial waste into the WRRF.

Interference (wastewater) means a discharge which alone or in conjunction with a discharge from other sources inhibits or disrupts the WRRF, its treatment processes, operations, or solids processes, use or disposal and, therefore, is a cause of a violation of any requirement of the city WRRF NPDES permit or of the prevention of beneficial biosolids reuse.

MPCA means Minnesota Pollution Control Agency.

Municipal separate stormwater system or *MS4* means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, man-made channels, or storm drains:

(1) Owned or operated by a state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district or similar entity, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under 33 USC 1288 that discharges into waters of the state;

(2) Designed or used for collecting or conveying stormwater; and

(3) That is not a combined sewer; and that is not part of a publicly owned treatment works as defined in 40 CFR 122.2; and

Municipal separate stormwater systems do not include separate stormwater in very discrete areas, such as individual buildings.

Municipal utility means refers to any municipally owned utility system.

National Categorical Pretreatment Standards means federal regulations establishing pretreatment standards for introduction of pollutants in publicly owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to section 307(b) of the Federal Water Pollution Control Act, 33 USC 1251 et seq.

National Pollutant Discharge Elimination System (NPDES) permit means any permit or requirements issued by the Minnesota Pollution Control Agency (MPCA), pursuant to the federal Water Pollution Control Act, 33 USC 1251 et seq., for the purpose of regulating the discharge of wastewater, industrial wastes, or other wastes under the authority of section 402 of the Federal Water Pollution Control Act, 33 USC 1251 et seq.

Natural outlet means any outlet, including storm drains and combined sewers, which overflows into a pond, ditch, lake or other body of surface water or groundwater.

Non-contact cooling water means the water discharged from any use such as air conditioning, cooling, or refrigeration, to which the only pollutant added is heat.

Non-stormwater discharge means any discharge not composed entirely of stormwater.

Operation and maintenance (O&M) means those variable expenditures and costs which are directly attributable the operations and maintenance of a waste treatment works and includes replacement.

Permit holder means an industrial user authorized to discharge industrial waste into the WRRF pursuant to an industrial wastewater discharge permit.

pH means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of a solution. The term "pH" is the measure of the acidity or basicity of a waste.

Pretreatment means the process of reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the WRRF. The reduction, elimination, or alteration may be obtained by physical, chemical, or biological processes, process changes or other means, except as prohibited by this article.

Pretreatment standards means the standards for industrial groups (categories) promulgated by the EPA pursuant to the Act which regulates the quality of effluent discharge to the WRRF and must be met by all users subject to such standards.

Public utility means the unit of municipal government and its people responsible for the WRRF and this chapter.

Receiving body means body of water, be it a holding pond, stream, intermittent waterway, or the Minnesota or Blue Earth Rivers, into which the storm drain system for the city empties.

Recyclables means all items that can be separated from the waste stream for making or manufacturing new products.

Refuse means garbage, household refuse.

Replacement means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

Residuals solids means solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment facility.

Service refers to providing a particular utility to a consumer.

Sewer means a pipe or conduit that carries wastewater or drainage water.

Collection sewer means pipelines or conduits, pumping stations, force mains, and all other devices and appurtenances, used for collecting or conducting wastewater.

Combined sewer means a sewer intended to serve as a sanitary sewer and a storm drain.

Public sewer means a sewer owned, maintained, and controlled by a public authority.

Sanitary sewer means a sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of groundwaters, stormwaters, and surface waters which are not admitted intentionally.

Storm drain means a drain intended to carry stormwater, surface runoff, groundwater, subsurface water, street wash water, drainage, and unpolluted water from any source.

Sewer service charge system means the system of charges by which revenue is generated to offset the cost of operation and maintenance plus replacement, administration, and debt service.

Significant industrial user means any industrial user of the city's wastewater treatment system which:

(1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subch. N; and

(2) Any other industrial user that:

a. Discharges an average of 25,000 gallons per day or more of process wastewater to the WRRF (excluding sanitary, noncontact cooling and boiler blow down wastewater).

b. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the WRRF.

c. Is designated as such by the city as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WRRF operation or violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6).

Slug means any waste discharge which, in concentration of any given constituent or in quantity of flow, exceeds four times the average 24 hour concentration or flow during normal operation which may by itself or in combination with other wastes cause an interference within the WRRF.

State disposal system permit means any permit (including any terms, conditions, and requirements thereof), issued by the MPCS pursuant to M.S.A. § 115.07 for a treatment system as defined by M.S.A. § 115.07, subd. 8.

Stormwater means water runoff, snow melt runoff, and surface runoff and drainage.

Stormwater system means the system which consists of streets, curb, and gutters, catchbasins, manholes, watercourses and all other structures, appurtenances and facilities that store or convey stormwater.

Strength surcharge means a treatment charge assessed by the city to industrial users based on wastewater volume and CBOD or TSS exceeding base concentrations and other parameters designated by the city.

Total phosphorus (TP) means total phosphorus is chemically defined as the measurement of condensed orthophosphate and organically bound phosphates. The term "total phosphorous" is analytically defined as the measurement of reactive phosphates, hydrolysable phosphates, and organically bound phosphates, based on current standard methods.

Total suspended solids (TSS) means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by a standard glass fiber filter.

Toxic pollutant means the concentration of any pollutant or combination of pollutants which, upon exposure to or assimilation into any organism, will cause adverse effects as defined in standards issued pursuant to section 307(a) of the Federal Water Pollution Control Act, 33 USC 1251 et seq.

Unpolluted water means water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities (see *Non-contact cooling water*).

User charge means a charge levied on users of the treatment works for the general operation and maintenance, capital improvement, and debt service of such works.

Utility means refers to all utility services, whether the same be municipal facilities or furnished by public or private utility companies, as defined under M.S.A. § 216B.02, subd. 4, except those the regulation of which has been placed under the exclusive authority of the state or federal government.

Utility account codes.

Commercial user means retail or wholesale type establishments, i.e., restaurants, hotels, motels, stores, filling station, commercial laundry, etc., and multiple-family units and apartments not meeting the residential classification, that discharge wastewater into the public wastewater treatment system, works and facility.

Governmental/institutional-hospital user means nursing homes; schools; city, county, state or federal industrial buildings; or facilities that discharge wastewater into the public wastewater treatment system, works and facility.

Industrial user means an "industry," as defined elsewhere in this article which discharges wastewater into the public treatment, works, and facility.

Residential user means a principal family residence or habitation classed as a single-family or duplex that discharges domestic sanitary wastewater having characteristics of 260 mg/L $CBOD_5$ and 280 mg/L suspended solids, into the public wastewater treatment system, works, and facility.

WRRF means water resource recovery facility, the city's wastewater treatment facility.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is discharged into or permitted to enter the city's wastewater treatment system.

Wastewater treatment system or *system* means any devices, facilities, structures, equipment or works owned or used by the city for the purpose of the transmission, storage or treatment of industrial and domestic wastewater including intercepting sewer, outfall sewers, wastewater collection system, pumping, and other equipment, and their appurtenances, extensions, improvements, remodeling, additions, and alterations thereof, and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

Waters of the state means all streams, lakes, ponds, marshes, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural, or artificial, public, or private, which are contained within, flow through, or border upon the state or any portion thereof.

Yard debris means vegetative and woody material generated from residential property from landscaping activities, to include grass clippings, leaves, hedge trimmings, and similar vegetative waste but does not include stumps or similar bulky wood materials.
(Code 2015, § 3.01; Ord. No. O-2022-0926-11, § 3.01, 9-26-2022)

Sec. 17-2. Franchise agreements.

Provisions of this chapter relating to municipal utilities shall constitute portions of the contract between the city and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same. All contracts between franchisees and consumers of utility services other than municipal shall be in strict accordance with the provisions of this chapter.

(1) *Franchises required.* A person or legal entity must obtain a city franchise before installing or maintaining a fixture in, on, over, or under a city street or public way for a public utility or other purpose, except when otherwise permitted by law. A franchise must be granted by an ordinance that is not an emergency ordinance. The ordinance will contain the franchise conditions. The person or legal entity obtaining the franchise must pay for publication of the franchise ordinance and must deposit sufficient funds for that purpose with the city clerk before ordinance adoption.

(2) *Public hearing*. The council must hold a public hearing before a franchise ordinance is adopted or amended. Notice of the hearing must be published in the official means of publication at least ten days before the hearing.

(3) *Further regulation; franchise value.* The council may, by ordinance, reasonably regulate and control the exercise of a franchise, to the extent permitted by law. The value of the franchise may not be included in the valuation of the grantee's property for any purpose, including municipal acquisition of the grantee's property by purchase or eminent domain.

(4) *Term.* The council may not grant an exclusive or perpetual franchise. If a franchise is proposed for a term exceeding 20 years, the issue must be submitted to the voters for approval or disapproval.

(5) *Renewals.* An extension, renewal or modification of a franchise is subject to the same limitations and procedures as a new franchise.
(Code 2015, § 3.17; Ord. No. O-2022-0926-11, § 3.17, 9-26-2022)

Sec. 17-3. Ownership of municipal utilities.

Ownership of all municipal utilities, plants, lines, mains, extensions, and appurtenances thereto, except for service lines connected to city mains and service line accessories, shall be and remain in the city and no person shall own any part or portion thereof.
(Code 2015, § 3.03(10); Ord. No. O-2022-0926-11, § 3.03(10), 9-26-2022)

Sec. 17-4. Right of entry.

The city has the right to enter in and upon private property, including buildings and dwelling houses and easements, in or upon which is installed a municipal utility, or connection therewith, always reasonable under the circumstances, for the purpose of reading utility meters, and for the purpose of inspection or repair of meters or a utility system, or any part thereof.
(Code 2015, § 3.03(11); Ord. No. O-2022-0926-11, § 3.03(11), 9-26-2022)

Sec. 17-5. Prohibited acts.

(a) It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.

(b) It is unlawful for any person to make any connection with any municipal utility without first having applied for and received permission from the city to make the same.

(c) It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the city for nonpayment of a bill, or for any other reason, without first having obtained permission to do so from the city.

(d) It is unlawful for any person to jumper or, by any means or device, fully or partially circumvent a municipal utility meter or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

(e) It is unlawful for any person to construct a private water well for domestic, commercial, industrial, institutional, or governmental water use inside the corporate limits of the city after the effective date of the ordinance from which this chapter is derived. Private wells in existence within the city limits as of the effective date of the ordinance from which this chapter is derived are excluded from this provision.

(f) It is unlawful for a sanitary sewer connection to allow unpolluted water to enter the sanitary sewer system.

(g) Cross connections between the municipal water system and other systems, or equipment containing water or other substances of unknown or questionable safety are prohibited, except when and where suitable protective devices such as break tanks, reduced pressure zone backflow preventers, or their equal, are installed, tested, and maintained, to ensure proper operation on a continuing basis. Prior to installation of a reduced pressure backflow preventer, the installer shall apply for a permit, furnish plans of the installation, and receive approval from the plumbing inspector. The city designee shall be notified prior to the installation of any backflow prevention device. Owners of such devices shall have them tested in accordance with the state plumbing code. Records of this testing shall be submitted to the plumbing inspector within 30 days of the test for its permanent record.

(h) When a street, boulevard, avenue, lane, or any designated public thoroughfare is scheduled for improvement, an investigation of residential, commercial, industrial, institutional, and governmental properties along the route shall be conducted for the purpose of identifying illegal discharges through defective sanitary sewer services, roof leaders, sump pump connections, footing drains, etc., of rainfall inflow or groundwater infiltration into the sanitary sewer system. The property owners shall be put on notice by the plumbing inspector to correct such inflow or infiltration connections to conform to current ordinances prior to completion of the street project.

(i) Water services made of lead when discovered shall be replaced. The entire length of the water service line, from the water main to the water meter, shall be in conformance with the state plumbing code standards, and shall be one inch in diameter. An exception shall be made for existing copper water service lines, provided the service line complies with all other plumbing code standards. The plumbing inspector shall notify the city engineer when each property has been properly plumbed.
(Code 2015, § 3.03(13); Ord. No. O-2022-0926-11, § 3.03(13), 9-26-2022)

Secs. 17-6—17-28. Reserved.

ARTICLE II. WATER

Sec. 17-29. Curb stops and service line location and maintenance.

The city determines where to locate curb stops and service lines or pipes from the city's main to the consumer's meter, and they shall at all times be maintained in good repair by the consumer, and if the city finds any leaks or defects therein which remains unrepaired for a period of time determined by the city designee based on the severity of the repair/leak, and placed on the notice, the city may terminate service to the consumer's premises, or issue administrative fees as established by resolution of the city council and provided in the city fee schedule, or shall cause repairs to be made and the cost thereof to be billed to the consumer.
(Code 2015, § 3.04; Ord. No. O-2022-0926-11, § 3.04, 9-26-2022)

Sec. 17-30. Private wells.

(a) *Requirements.* Wells which were previously allowed to remain within the city limits prior to December 31, 2022, will have the following requirements when identified:

(1) If there is not a definite termination between the city supplied water and the private well, an RPZ (reduced pressure zone/backflow preventer) will be installed by a state-licensed plumbing contractor. The RPZ will be inspected annually by a state-licensed contractor and documentation will be supplied to the plumbing inspector within 30 days. Failure to complete the inspection and submit the documentation will result in well condemnation.

(2) If there is a definite termination between the city water supply plumbing and the private well supply, annual inspection of the well, piping, and verification that the well has a functional source of power and is being used (as per M.S.A. ch. 103I.301, subd. 1b) will be completed by a state-licensed plumbing contractor. Failure to complete the annual inspection of the

well will result in condemnation of the well. The annual inspections will continue until documentation of the well sealing has been submitted to the city as well as the county within 30 days of the dated inspection.

(b) *Private well sealing required upon connection to municipal utilities.* The purpose of this private well sealing requirement within the city limits is to protect groundwater and human health as well prevent the possibility of cross contamination. All private/shared wells within city limits must be sealed upon utility service connection.

(1) The city inspector will verify there are no cross connections prior to utilities being turned on.

(2) All private wells located within city limits must be sealed within one year of utility service connection.

(3) Well sealing records must be turned in to the county as well as the city plumbing inspector within 30 days of sealing.

(4) Failure to seal wells within one year of utility service connection along with supporting documentation submitted to the plumbing inspector may result in the city causing the well to be sealed and billed to the property owner and termination or suspension of service.

(c) *Penalties.*

(1) *Administrative penalties.* See chapter 2, article III, division 2 regarding administrative hearings procedures. Administrative penalty amounts established by resolution of the city council.

(2) *Criminal penalties.* Any person violating any of the provisions of this section may be guilty of a misdemeanor under state law and upon conviction thereof shall be furnished by a fine or by imprisonment for not to exceed 90 days, or both.

(Code 2015, § 3.05)

Sec. 17-31. Fire suppression system.

Any person, firm or corporation desiring to connect to any city water main any fire suppression system, shall make a written application to the city accompanied by a complete plan of all pipes, apparatus and fixtures proposed to be connected, together with a plan of the building in which such system is to be installed. Such plan must meet the requirements of the uniform building code to be in accordance with the standards of the National Fire Protection Association. The city, in its discretion, may grant permission to make such connections, the expense of which shall be of the applicant, provided that such installation shall be made in accordance with any applicable city requirements.

(1) Should any modification or an addition in or to any existing fire protection or fire suppression system be desired by the applicant, application to such effect shall be made to the city. The application shall include complete plans for the proposed modification or addition. No modification or addition shall be made without the written permission of the city and any such modification or addition shall conform to the uniform building code and the standards of the National Fire Protection Association.

(2) Any person, firm or corporation making application hereunder to connect to any city water main any fire protection or fire suppression system, or any person, firm or corporation having or utilizing, as owner or lessee, any existing fire protection or fire extinguishing system connected to any city water main, shall provide to the city a release-indemnity agreement, in such form as the city may prescribe and executed by such person or the officers of such firm or corporation. Such release-indemnity agreement shall release and discharge the city from any and all actions, causes of action, costs, damages, claims and demands which such person, firm or corporation has or shall have arising out of or related to any loss, damage or injury, including death, that may be sustained by such person, firm or corporation, by reason of such connection to or utilization of city water mains, and shall provide that such person, firm or corporation shall indemnify and hold harmless the city from any and all actions, causes of action, costs, damages, claims and demands to which the city may be subjected by reasons of such connection filed with the city before permission may be granted hereunder to connect any fire protection of fire extinguishing system to any city water main, and the continued use or utilization of any such system shall be permitted only in the event such release-indemnity agreement has been so filed.

(Code 2015, § 3.06; Ord. No. O-2022-0926-11, § 3.06, 9-26-2022)

Sec. 17-32. Prohibited access and use.

(a) It is unlawful for any person, not expressly authorized by the city, to connect to a water distribution main.

(b) It is unlawful for any person, other than duly authorized city personnel, in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the same or in any manner interfere therewith.

(c) It is unlawful for any person authorized to open hydrants or service valves to supply a key or a wrench, used for opening such hydrants or valves, to unauthorized persons.

(d) Water meter seals. It is unlawful for any person not expressly authorized by the city to remove, damage, deface or tamper with a city water meter or remote meter reading device or any seal placed upon a water meter by the city. In addition to any other penalties, civil or criminal, the user shall be charged according to the fee established by resolution of the city council and provided in the city fee schedule.

(e) Water meter access. It is unlawful for any person to conceal a water meter in any manner which limits reasonable access to that water meter by water utility personnel. If water utility personnel cannot remove, replace, or perform required water meter maintenance due to concealment of the water meter, the water meter owner shall be given written notice by the plumbing inspector to remove the obstructions by the time specified in the notice and in no instance longer than 30 days.

(Code 2015, § 3.07; Ord. No. O-2022-0926-11, § 3.07, 9-26-2022)

Sec. 17-33. Water during construction.

A connection may be granted and installed to supply water for construction by special approval from the city. If a construction meter for water on-site is needed, a contract will be applied for with the city, and construction rates for water will apply, as established by resolution of the city council. (Code 2015, § 3.08; Ord. No. O-2022-0926-11, § 3.08, 9-26-2022)

Sec. 17-34. Water conservation.

To conserve and maintain the quality of the available water supply and protect the integrity of water supply facilities the city council has adopted the most current version of the city's water supply plan. To further promote water conservation the following use requirements are in effect with respect to irrigation for lawn areas, grass, or turf:

(1) A person may irrigate or otherwise use water from the city's municipal water system for lawn areas, grass, or turf only on alternating days.

(2) Alternating days means that a property with an address ending in an odd number may irrigate only on odd-numbered days of the month and a property with an address ending in an even number may irrigate only on even-numbered days of the month.

(3) No person may irrigate or otherwise use water from the city's municipal water system for lawn areas, grass, or turf between the hours of 11:00 a.m. through 6:00 p.m. of any day.

(4) Upon written request and approval by the city manager, or their designee, and subject to such terms and conditions imposed by the city manager, or their designee, with respect to such approval, the following persons may be authorized to irrigate or otherwise utilize water from the city's municipal water system for lawn areas, grass, or turf at times other than as permitted in subsections (2) and (3) of this section:

   a. Any person owning or operating an educational institution, a commercial property, or business enterprise whose economic well-being is dependent upon irrigation of a lawn, grass or turf owned, leased or operated by it;

   b. Employees and agents of the city, in such instances wherein lawn, grass or turf used for playfields or areas owned and operated by the city require more frequent irrigation to prevent unreasonable damage thereto;

   c. Owners and lessees (their employees and agents) of lands newly sodded or grass seeded which requires irrigation to prevent loss of new sod, seed or immature turf or grasses for a period of 30 days with a city-issued temporary watering permit.

(5) Restrictions of water usage. Whenever it is determined by the city manager or designee that a shortage of water supply may be imminent, they are authorized to limit the uses of municipal water and times and hours during which water from the municipal water supply may be used.

(6) Action by the city manager or designee. The city manager or designee may act by filing with the city clerk a written certification that there is an imminent shortage of water supply. The certification shall specify the appropriate response step in the water supply plan emergency

plan sequence. This will become effective 24 hours after being filed. The city clerk shall endorse on each filing the time and date of the filing. The city manager shall take such action as is reasonably practical to inform the public of the imposition of restrictions on water usage and the charges and other penalties for violation of such restrictions.

(7) For each instance on noncompliance with water usage restrictions imposed by this section, a charge, as established by resolution of the city council and provided in the city fee schedule, shall be assessed against the property on which the violations occurred. Failure to comply with water usage restrictions shall be a misdemeanor.

(Code 2015, § 3.09; Ord. No. O-2022-0926-11, § 3.09, 9-26-2022)

Secs. 17-35—17-56. Reserved.

ARTICLE III. WASTEWATER

DIVISION 1. GENERALLY

Sec. 17-57. Collection system rules and regulations.

Any customer who discharges wastewater or industrial waste into the wastewater collection system, must be metered with a city-approved wastewater meter or be obtained from an approved city water meter reading system.

(Code 2015, § 3.11(intro. ¶); Ord. No. O-2022-0926-11, § 3.11(intro. ¶), 9-26-2022)

Sec. 17-58. Pre-treatment requirement.

Any customer who discharges wastewater or industrial waste into the wastewater collection system of the city which shall be deemed harmful to the wastewater collection system or wastewater treatment process may be required to pre-treat such waste to an acceptable standard as provided in this Code and applicable state and federal law.

(Code 2015, § 3.11(1); Ord. No. O-2022-0926-11, § 3.11(1), 9-26-2022)

Sec. 17-59. Termination of service.

Whenever any customer discharges industrial waste wastewater into the wastewater system of the city which does not meet the established requirements for industrial waste, the city may terminate service to the customers. However, the city reserves the right to exclude any or all industrial wastes, regardless of strength.

(Code 2015, § 3.11(2); Ord. No. O-2022-0926-11, § 3.11(2), 9-26-2022)

Sec. 17-60. Drain elevation.

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

(Code 2015, § 3.11(3); Ord. No. O-2022-0926-11, § 3.11(3), 9-26-2022)

Sec. 17-61. Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, any flammable wastes, sand, or other harmful substances. All interceptors shall be of the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal of the captured materials by appropriate means and shall maintain a record of dates and means of disposal. Any removal and hauling of the collecting materials not performed by the owner's personnel must be performed by a currently licensed waste disposal firm.
(Code 2015, § 3.11(4); Ord. No. O-2022-0926-11, § 3.11(4), 9-26-2022)

Sec. 17-62. Standard Methods to be used.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, location, times, duration, and frequencies are to be determined on an individual basis subject to approval by the city manager or designee.
(Code 2015, § 3.11(5); Ord. No. O-2022-0926-11, § 3.11(5), 9-26-2022)

Sec. 17-63. Installation of sanitary facilities.

It is the duty of every owner or occupant of any property within the city, having a dwelling house or business building situated thereon, which property is within 350 feet of any municipal water and sewer mains, to install sanitary facilities in such dwelling or business building and make connections thereof with such water and sewer mains. Whenever the noncompliance of the owner or occupant of such property is reported to the city, an investigation shall be made and a written report presented to the council, and if the city finds that the lack of sanitary facilities is an unhealthful or unsanitary condition, the city shall forthwith serve written notice upon the owner or occupant requiring the installation upon premises described in the notice and connection thereof with the sewer and water mains, all of which shall be done within 30 days after the service of such written notice. Whenever any owner or occupant shall default in compliance with such written notice, the council may, by resolution, direct that a sanitary facility be installed, and connection be made with the water and sewer mains. The actual cost of such installations shall be assessed against the benefiting property.
(Code 2015, § 3.11(6); Ord. No. O-2022-0926-11, § 3.11(6), 9-26-2022)

Sec. 17-64. Sanitary sewer service line construction.

All sanitary sewer service lines and appurtenances connected to municipal utilities shall conform to the established requirements of the city's standard utilities specifications for sanitary sewer installation and the state plumbing code.
(Code 2015, § 3.11(7); Ord. No. O-2022-0926-11, § 3.11(7), 9-26-2022)

Sec. 17-65. Unlawful acts.

(a) It is unlawful for any person not expressly authorized by the city to connect to a wastewater collection main.

(b) It is unlawful for any person to make or maintain a connection between eaves trough, rainspouts, footing drains, sump pump line, or any other conductor used to carry stormwater or groundwater, and the wastewater system or any part thereof. Administrative penalties will apply and are established by resolution of the city council.

(c) It is unlawful for any person to construct, alter or extend any sewer connected or proposed to be connected to the wastewater system without first having the plans and specifications therefor approved by the city.

(d) It is unlawful for any owner, tenant, agent, occupant, or other person having charge of any premises to maintain thereon any drain or sewer connected with the wastewater collection system in a clogged, obstructed, broken or damaged condition, or not in conformance with the existing plumbing code.

(e) It is unlawful for any person to discharge or caused to be discharged any wastewater or water not categorized as unpolluted to a location other than wastewater collection system.

(f) It is unlawful to discharge stormwater or any other unpolluted drainage anywhere other than a specifically designed as storm drains or to a natural outlet approved by the city and other regulatory agencies.
(Code 2015, § 3.11(8); Ord. No. O-2022-0926-11, § 3.11(8), 9-26-2022)

Sec. 17-66. Limitations on wastewater strength.

(a) *Federal pretreatment standards.* Federal pretreatment standards and general regulations promulgated by the Federal Environmental Protection Agency (EPA) shall be met by all users which are subject to such standards in any instance where they are more stringent than the limitations in this article. In all other respects, industrial users subject to pretreatment standards shall comply with all provisions of these rules and any permit issued thereunder, notwithstanding less stringent provisions of the general pretreatment regulations or any applicable pretreatment standard.

(b) *State requirements.* State requirements and limitations on discharges shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this article.

(c) *City's right of revision.* The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the WRRF if deemed necessary to comply with the objectives presented in section 17-69.

(d) *Dilution.* No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in any local or state requirements or federal pretreatment standards.
(Code 2015, § 3.11(9); Ord. No. O-2022-0926-11, § 3.11(9), 9-26-2022)

Sec. 17-67. Accidental and slug discharges.

(a) *Prevention of accidental and slug discharges.* All industrial users shall provide adequate protective procedures to prevent the accidental discharge of any prohibited waste, any waste more than the permit limits or any waste in violation of an applicable pretreatment standard.

(b) *Accidental discharge.* Accidental discharges of prohibited waste into the WRRF, directly or through another disposal system, or to any place from which such waste may enter the WRRF, shall be reported to the city designee by the persons responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the fact of such discharge. Such notification will not relieve users of liability for any expense, loss or damage to the wastewater disposal system or treatment process, or for any fines imposed on the city on account thereof under any state or federal law. The responsible person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge.

(c) *Letter describing the prohibited discharge.* The responsible person may be required to submit a letter describing the prohibited discharge to the city designee within seven days of obtaining knowledge of the discharge. The letter is required to include the following information:

(1) The time and location of the spill; and

(2) Description of the accidentally discharged waste, including estimate of pollutant concentrations; and

(3) Time period and volume of wastewater discharged; and

(4) Actions taken to correct or control the spill; and

(5) A schedule of corrective measures to prevent further spill occurrences; and

(6) The time city staff was notified, and person contacted.

(d) *Slug discharge.* In the event that an industrial user discharges a slug in such volume or strength that the industrial user knows or has reason to know it will cause interference in the WRRF, the industrial user shall immediately report the same to the city manager or designee. The user may be required to, within seven days thereafter, submit a letter to the city manager or designee describing the slug as specified under accidental discharge. The letter will be required to provide the information as listed in subsection (c) of this section.

(e) *Spill containment program requirement.* Any industrial user with a significant potential to discharge materials listed in the prohibited discharge section of this article is required to install and maintain an adequate spill containment system. General spill containment requirements are listed below:

(1) Process, storage, holding, or treatment tanks containing materials listed in the prohibitive discharge section of this article as well as the associated piping, pumps and other appurtenances must be contained if a spill or leak could enter the sewer. This includes tanks used for short-duration mixing, processing, or storage.

(2) The city prohibits floor drains with direct connections to the public sewer in facilities that store toxic or flammable materials.

(3) The spill containment system may be required to be capable of containing 100 percent of the volume of the largest tank of restricted material.

(4) Acceptable containment systems include:

a. Diking may be used to spill contain single shell tanks. Diking usually consists of concrete blocks, concrete berming or other materials that form a permanent structural barrier. Portable spill containment trays/pallets are also acceptable.

b. Self-containment. Tanks of double shell construction are self-contained and do not require additional spill containment features unless there is a significant likelihood of overflowing. These tanks consist of two independent structural shells with the outer shell capable of containing any leakage from the inner one. An air gap of at least one inch must be provided between the inner and outer shell.

c. Pits constructed under or around tanks are acceptable as spill containment. No openings, manual or electric gates or valves are allowed.

(f) *Slug discharge control plan.* Any user designated by the city designee as a significant industrial user (SIU) must complete and implement a slug discharge control plan. Slug discharge control plans must contain the following elements:

(1) Description of discharge practices, including nonroutine batch discharges.

(2) Description of stored chemicals.

(3) Procedure for promptly notifying the WRRF of slug discharges as defined under section 40 CFR 403.5(b) and herein in subsection (d) of this section.

(4) Procedures necessary to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling, and transfer of materials, loading, and unloading operations, control of site runoff, and employee training. Also include drawings that show spill containment dimensions and the locations of all floor drains, wastewater piping and pretreatment equipment.

(5) The slug discharge control plan must be maintained at the discharge location and be available on request to staff from the city, MPCA or EPA.

(Code 2015, § 3.11(10); Ord. No. O-2022-0926-11, § 3.11(1), 9-26-2022)

Sec. 17-68. Industrial wastewater discharge permit.

(a) *Permit requirement.* Industrial users discharging wastewater to the WRRF shall apply for an industrial wastewater discharge permit in accordance with these rules unless the city manager or designee determines the wastewater has an insignificant impact to the WRRF. No industrial user requiring a permit shall discharge to the WRRF until the industrial user has been issued a permit. Issuance of an industrial wastewater discharge permit shall not relieve the industrial user from any obligation to obtain any hazardous waste license required by other authorities or to comply with any other local, state, or federal requirements regarding waste disposal.

(b) *Permit application.*

(1) An existing significant industrial user (SIU) that has already been issued an industrial wastewater discharge permit that is soon to expire, shall re-apply for a new permit 180 days prior to the expiration date of the existing permit.

(2) New significant industrial users proposing to connect or to commence a new discharge to the WRRF shall apply for an industrial wastewater discharge permit prior to connection to or discharging into the WRRF. No discharge into the WRRF can commence until an industrial wastewater discharge permit application form is received unless the city manager or designee has ruled that:

a. An industrial wastewater discharge permit is not required; or

b. A discharge waiver is granted to commence discharge pending final action by the city manager or designee.

(c) *Incomplete or deficient application.* An industrial wastewater discharge permit shall not be issued until an application has been satisfactorily completed and submitted to the city manager or designee.

(d) *Issuance of industrial wastewater discharge permit.* Within 60 days of receiving a completed application form, the city manager or designee shall, upon a determination that the applicant is capable of compliance with the industrial wastewater discharge permit conditions and these rules, issue an industrial wastewater discharge permit subject to the terms and conditions provided herein.

(e) *Permit conditions.* Industrial wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges, and fees established by the city council. Permits issued to qualifying industries are varied and may contain the following:

(1) A summary of the penalties and charges applicable for violations of the terms of permit.

(2) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the WRRF.

(3) Limits on the average or maximum wastewater constituents and characteristics, either in terms of concentrations, mass limitations, or other appropriate limits.

(4) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.

(5) Requirements for installation and maintenance on inspection and sampling facilities.

(6) Requirements for access to the permit holder's premises and records.

(7) Requirements for installation, operation, and maintenance of pretreatment facilities (see section 17-69).

(8) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and self-reporting schedule.

(9) Requirements for maintaining and retaining records relating to wastewater discharge as specified by the city manager or designee.

(10) Requirements for notification to the city manager or designee of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the WRRF.

(11) Requirements for notification of slug discharges as provided in section 17-67.

(12) The requirement for industrial wastewater discharge permit transfer, as stated herein.

(f) *Permit modification, suspension, and revocation.* An industrial wastewater discharge permit may be modified, suspended, or revoked, in whole or in part, by the city manager or designee during its term for cause, including:

(1) Violation of these rules:

a. Violation of any terms or conditions of the industrial wastewater discharge permit.

b. Obtaining an industrial wastewater discharge permit by misrepresentation or failure to fully disclose all relevant facts.

(2) Amendment of these rules:

a. A change in the wastewater treatment process which results in the permit holder's discharge having a significantly different or negative impact on the process;

b. A change in the permit holder's industrial waste volume or characteristics which the permit holder knows or has reason to know will or is likely to have, either by itself or by interaction with other wastes, a negative impact on the treatment process;

c. A change in the WRRF NPDES or SDS permit requirements, any other changes made by local, state or federal rules; or

d. A determination by the city manager or designee that the permit holder's discharge reasonably appears to present an imminent endangerment to the health or welfare of persons, present an endangerment to the environment, or threaten interference with the operation of the WRRF.

(3) Time schedule for compliance. Any modifications in the industrial wastewater discharge permit shall specify a reasonable time schedule for compliance.

(4) Permit duration. Permits shall be issued for a specified time period, not to exceed five years. The user shall apply for permit reissuance a minimum of 180 days prior to the permit's expiration date by filing with the city an industrial wastewater discharge permit application form. If an industrial user fails to submit an industrial wastewater discharge permit application form, the city may administratively extend the industrial user permit. The terms and conditions of the permit may be subject to modification by the city manager or designee during the term of the permit as limitations or requirements as identified in this section are modified or other just cause exists. The user shall be informed prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(5) Permit transfer. Industrial wastewater discharge permits are issued to a specific user at a specific location, for a specific operation. An industrial wastewater discharge permit shall not

be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city manager or designee. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. In the event of a change in the entity owning the industrial discharge facilities for which there is an industrial wastewater discharge permit, the prior owner, shall notify the city and the succeeding owner of the change in ownership and of the provisions of the industrial wastewater discharge permit and these rules. The new owner shall submit a new permit application or shall submit to the city an executed statement agreeing to be bound by the terms and conditions of the existing industrial wastewater discharge permit for the facility, in which case, upon consent of the city, the permit shall continue in effect until its expiration date.

(6) Other conditions as deemed appropriate by the city to ensure compliance with this article.
(Code 2015, § 3.11(11); Ord. No. O-2022-0926-11, § 3.11(11), 9-26-2022)

Sec. 17-69. Pretreatment compliance with standards.

(a) Where pretreatment, flow equalizing facilities or interceptors are provided for any water or wastes, they shall be effectively operated and maintained in satisfactory and effective condition by the owner, at the owner's expense, and available for inspection by city employees at all reasonable times.

(b) Industrial users shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Industrial users as required by their industrial wastewater discharge permit shall submit to the city manager or designee for review, detailed plans showing the pretreatment facilities at least 60 days prior to initiation of construction. The city manager or designee may approve the industrial user's pretreatment plans if it appears that the proposed pretreatment facility is capable of meeting all applicable limitations.

(c) The city designee review and approval shall in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of these rules. Any subsequent modifications in the pretreatment facilities which will result in a substantial change in discharge shall be reported for approval by the city manager or designee upon a determination that the modified facility is capable of meeting all applicable limitations, prior to the modification of the existing facility.

(d) Residual solids from a pretreatment facility shall not be disposed, directly or indirectly, into the WRRF without prior written approval from the city manager or designee. The disposal method shall be in accordance with local, state and federal requirements. The city manager or designee shall be notified in writing within ten days of any substantial changes in such residual solids disposal procedures or characteristics.

(e) Separator and trap installations. Grease, oil, and sand separators and traps shall be provided at the owner's expense for the proper collection of waste containing excessive amounts of grease, oil, or sand. All trap installations shall be regularly cleaned and maintained for adequate performance. All records of separators and traps must be available for review by city personnel. The

distance between the inlet and outlet of the separator or trap must be sufficient to allow gravity separation of solids. To prevent overloading, flow control baffles and any necessary inlet flow, control fitting shall be provided.
(Code 2015, § 3.11(12); Ord. No. O-2022-0926-11, § 3.11(12), 9-26-2022)

Sec. 17-70. Confidential information.

(a) User information obtained from reports, questionnaires, permit applications, permits, monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this article, the NPDES permit, state disposal system permit, or the pretreatment programs, provided that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
(Code 2015, § 3.11(13); Ord. No. O-2022-0926-11 § 3.11(13), 9-26-2022)

Sec. 17-71. Prohibitive discharges.

No person shall discharge or cause to be discharged, directly or indirectly, into the WRRF any of the following:

(1) Any combustible, flammable or explosive solids, liquids, or gases which by their nature or quantity will or are likely to cause either alone or by interaction with other substances a fire or explosion or be injurious to the treatment facility operation. At no time shall two successive readings on an explosimeter, or photo-ionizing detector, at the point of discharge into the sewer system, be more than five percent nor shall there be any single reading over ten percent of the lower explosive limit (LEL). Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, fuel oil, lubricating oil, benzene, toluene, xylene, ethers, alcohols, and ketones or any such compound able to be read by local chemical assessment teams.

(2) Any solids or viscous substances which will or are likely to cause obstruction to the flow in a sewer, interference with the operation of the wastewater treatment or pass through to the receiving waters. These include garbage with particles greater than one-half inch in any dimension, grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, feathers, ashes, sand, spent lime, stone or marble dust, metal, glass, grass clippings, rags, spent grains, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, glass grinding, polishing wastes, nondispersible wipes, or pharmaceuticals.

(3) Any wastewater having a pH less than 6.0 or greater than 10.0 or having any corrosive property that will or is likely to cause damage or hazard to structures, equipment, or employees of the public utility.

(4) Any alkaline wastewater which alone or with others will or is likely to cause an elevated pH in the WRRF so as to result in an inhibiting effect on the biological process or encrustation to the sewer.

(5) Any wastewater containing toxic or poisonous pollutants in sufficient quantity, either by itself or by interaction with other pollutants that will or is likely to cause interference or constitute a hazard to humans. (A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.)

(6) Any noxious or malodorous solids, liquids, or gases, at the industry location, municipal collection system or WRRF, which either singly or by interaction with other wastes, will or are likely to create a public nuisance or hazard to life or prevent the entry of utility employees into a sewer for monitoring, maintenance, and repair.

(7) Any wastewater which will or is likely to cause excessive discoloration in treatment facility effluent or cause effluent turbidity at the WRRF to be above two nephelometric turbidity units at the tertiary step of the treatment process.

(8) Wastes, other than domestic wastes, that are infectious prior to discharging.

(9) Any solids residual from an industrial pretreatment facility except as provided in section 17-69.

(10) Heat in amounts which will or is likely to inhibit biological activity in the treatment facility resulting in interference or causing damage to the treatment facility but, in no case, heat in such quantities that the industrial user's waste temperature is greater than 65 degrees centigrade (150 degrees Fahrenheit) at its point of discharge to the sewer system, or heat causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 40 degrees centigrade (104 degrees Fahrenheit).

(11) Any wastewater containing fat, wax, grease, or oil in excess of 50 mg/L that will or is likely to solidify or become viscous at temperatures between zero and 65 degrees centigrade and which will or is likely to cause interference at the WRRF including petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin.

(12) Any slug discharged in such volume or strength which a person knows or has reason to know will or is likely to cause interference to the WRRF.

(13) Any substance including nutrients which will cause the WRRF to violate the NPDES or state disposal system permit or the receiving water quality standards or goals.

(14) Any substance which may cause the WRRF effluent or any other product of the wastewater treatment process such as residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the WRRF cause the system to be in noncompliance with biosolids use or

disposal criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state standards applicable to the biosolids management method being used.

(15) Any wastewater containing inert suspended solids (including lime slurries and lime residues) or dissolved solids (including sodium chloride) in such quantities that will or is likely to cause interference or pass through at the WRRF.

(16) Radioactive wastes or isotopes of such a half-life or concentration that they are in noncompliance with standards issued by the appropriate authority having control over their use and which will or are likely to cause damage or hazards to the WRRF or utility employees or create noncompliance with NPDES or beneficial reuse of biosolids.

(17) Any hazardous waste unless prior approval has been issued from the city manager or designee.

(18) Any waste generated outside the municipal collection system by the WRRF without prior approval of the city designee.

(19) Any unpolluted water, including cooling water, rainwater, stormwater, or groundwater.

(20) Any trucked or hauled wastes or pollutants, except those approved by the city manager or designee at discharge points designated by the city.

(21) Nutrients that exceed acceptable limits as set by the WRRF.

(Code 2015, § 3.10; Ord. No. O-2022-0926-11, § 3.10, 9-26-2022)

Secs. 17-72—17-100. Reserved.

DIVISION 2. ENFORCEMENT

Sec. 17-101. Collection enforcement.

(a) *Remedies available.* The city designee may suspend the sewer system service or an industrial wastewater discharge permit when such suspension is necessary, in the opinion of the city manager or designee, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, the environment, or the WRRF, or would cause the city to violate any condition of its NPDES or state disposal system permit. Any user notified of a suspension of the sewer system service or the industrial wastewater discharge permit shall immediately stop the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the city manager or designee shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WRRF or endangerment to any individuals. The city manager or designee shall reinstate the industrial wastewater discharge permit or the sewer system service upon proof of the elimination of the noncomplying discharge.

(b) *Revocation of permit.* The city manager or designee may revoke the permit of any user which fails to factually report the wastewater constituents and characteristics of its discharge; which fails to report significant changes in wastewater constituents or characteristics; which refuses reasonable access to the user's premises for the purpose of inspection or monitoring; or for violation of conditions of its permit, this article, or applicable state and federal regulations.

(c) *Notification of violation.* Whenever the city manager or designee finds that any person has violated or is violating this article, industrial wastewater discharge permit, phosphorus management plan or any prohibition, limitation or requirement contained herein, the city manager or designee may serve upon such person a written notice stating the nature of the violation. Within ten days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

(d) *Show cause hearing; notice of hearing.* If the violation is not corrected by timely compliance, the city manager or designee may order any user which caused or allowed an unauthorized discharge to show cause in front of an administrative hearing officer pursuant to chapter 2, article III, division 2 why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the administrative hearing officer why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) in the manner set forth in chapter 2, article III, division 2. Service may be made on any agent or officer of a corporation. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(e) *Legal action.* If any person discharges wastewater, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this article, federal or state pretreatment requirements or any order of the city, the city attorney may commence an action for appropriate legal or equitable relief.

(f) *Enforcement response plan (ERP).* The ERP describes violations and indicates a range of appropriate enforcement options. An enforcement action can be issued in no particular order for each violation to ensure compliance with city, state and federal regulations and the pretreatment program.

(g) *Penalties.*

(1) *Administrative penalties.* See chapter 2, article III, division 2 regarding administrative hearings procedures. Administrative penalty amounts are established by resolution of the city council;

(2) *Criminal penalties.* Any person violating any of the provisions of this article may also be guilty of a misdemeanor under and upon conviction thereof shall be furnished by a fine or by imprisonment for not to exceed 90 days, or both.

(h) *Publication of significant noncompliance.* Public notification will occur at least annually in a newspapers of general circulation that provides meaningful public notice within the jurisdictions served by the WRRF of industrial users which, at any time during the previous 12 months, were in

significant violation of applicable pretreatment standards or pretreatment requirements. For the purpose of this provision, an industrial user is in significant violation if its violations meet one or more of the following:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of a numeric pretreatment standard or requirement, including instantaneous limits times the applicable TRC (TRC equals 1.4 for CBOD, SS, fats, oil, and grease and TRC equals 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment (daily maximum or longer-term average, instantaneous limit or narrative standard) that the city manager or designee determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city employees or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment and has resulted in the necessity for the city to exercise its emergency authority under 40 CFR 403.8 (F)(1)(vii)(b) to halt or prevent such a discharge;

(5) Violation, by 90 days or more after the schedule date, of a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide required reports such as baseline monitoring reports, self-monitoring reports, and reports on compliance with compliance schedules, within 45 days of the due date;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations, which may include a violation of best management practices which the city manager or designee determines will adversely affect the operation or implementation of the local pretreatment.

(Code 2015, § 3.12; Ord. No. O-2022-0926-11, § 3.12, 9-26-2022)

Secs. 17-102—17-130. Reserved.

ARTICLE IV. STORMWATER

Sec. 17-131. Installation of drainage connections.

All properties are required to be connected to the storm drainage system, except for properties zoned R-1 and R-2 that are used for residential dwelling purposes. All drainage systems that are

connected to the municipal storm drainage system must be designed, installed, and maintained in conformance with the current drainage policy as found in the city grading and drainage manual or similar document.
(Code 2015, § 3.13(1); Ord. No. O-2022-0926-11, § 3.13(1), 9-26-2022)

Sec. 17-132. Noncompliance.

Whenever the noncompliance of the owner or occupant of such property is reported to the city, an investigation shall be made, and a written report presented to the city manager or designee. If the city finds that the drainage system fails to meet the requirements of section 17-101(a), the city shall forthwith serve written notice upon the owner or occupant requiring the drainage system to be in conformance with section 11-4, within 60 days after the service of such notice. Whenever any owner or occupant shall default in compliance with such written notice, the city manager or designee may direct that drainage system be brought into conformance. The actual cost of such connection shall be assessed against the benefited property.
(Code 2015, § 3.13(2); Ord. No. O-2022-0926-11, § 3.13(2), 9-26-2022)

Sec. 17-133. Sump pump discharge connection requirements.

All sump pump discharge connections to the city storm drainage system shall conform to the following requirements as well as those in the current version of the adopted building and plumbing code:

(1) *New structure construction.* The builder is required to extend the discharge line from the stormwater drainage system to the structure foundation, at minimum, one foot above final grade. The interior sump pump shall be connected to this discharge line. The entire sump pump discharge system shall remain operable and continuously connected to the stormwater drainage system while the structure remains on the property.

(2) *Existing structures.* When an adequate stormwater drainage system is installed in a public right-of-way, the sump pump discharge line from an existing structure shall be connected to the system within one year of completion of the improvement. The entire sump pump discharge system shall remain operable and continuously connected to the stormwater drainage system while the structure remains on the property.

(Code 2015, § 3.13(3); Ord. No. O-2022-0926-11, § 3.13(3), 9-26-2022)

Sec. 17-134. Public nuisance.

(a) The following actions related to sump pump discharges and stormwater drainage are deemed to be public nuisances:

(1) Discharging sump/stormwater onto a public street or curb and gutter system.

(2) Discharging sump/stormwater onto an impervious surface that conveys water to a city right-of-way.

(3) Discharging sump/stormwater conveyance line over a public sidewalk.

(4) Placing a sump/stormwater conveyance line over a public sidewalk.

(5) Allowing sump/stormwater discharges to leave the property of origin on a course that is not a natural drainage course.

(6) Discharging sump/stormwater into facilities and to locations not approved by the city.

(b) Upon determination that a public nuisance exists upon the property, the property owner shall be ordered to bring the property into compliance by:

(1) Connecting drainage discharge to a city stormwater facility, if present, within the time that is specified in the order notifying the property owner of the nuisance.

(2) Retaining discharge water on property of origin or city boulevard area within the time that is specified in the order notifying the property owner of the nuisance.

(c) Failure to comply with an enforcement order may result in the city abating the nuisance under section 11-13 and making the connection at the property owner's expense.
(Code 2015, § 3.13(4); Ord. No. O-2022-0926-11, § 3.13(4), 9-26-2022)

Sec. 17-135. Municipal separate stormwater system or MS4.

(a) *Unlawful acts.* It is unlawful for any person to directly or indirectly discharge, place or cause an illicit discharge of any substance that is not composed entirely of stormwater into the city's stormwater system, except as described as follows:

(1) Those authorized under non-stormwater discharges in the city's MS4 permit.

(2) The following categories of non-stormwater discharges or flows are authorized under this permit to enter the permittee's small MS4 only if the permittee does not identify them as significant contributors of pollutants (i.e., illicit discharges), in which case the discharges or flows shall be addressed in the permittee's SWPPP; water line flushing, landscape irrigation, diverted stream flows, rising groundwater's, uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(b)(20)), uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential noncommercial car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges or flows from firefighting activities.

(3) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(4) Dye testing is an allowable discharge but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(5) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Violations and enforcement.* The city shall use the following procedure to notify property owners of violations and corrective measures:

(1) *Stop work orders.* The city manager or designee may issue stop work orders for any violation of this article.

(2) *Public nuisance.* A violation of this section is declared to be a public nuisance, and which may be abated according to the provisions for chapter 11.

(c) *Legal action.* If any person directly or indirectly causes an illicit discharge into the city's stormwater system or MS4 contrary to the provisions of this section, federal or state regulations or any order of the city, in addition to any criminal prosecution for violation of this section, the city attorney may commence an action for appropriate legal or equitable relief to terminate violation and recover all expenses as allowed in this chapter and chapter 2, article III, division 2.
(Code 2015, § 3.14; Ord. No. O-2022-0926-11, § 3.14, 9-26-2022)

Secs. 17-136—17-153. Reserved.

ARTICLE V. SOLID WASTE

Sec. 17-154. Service established.

The city has established a city collection service, a municipal utility, and all residential households within the city shall dispose of collectable refuse by the city collection service only and shall not transport or dispose of refuse by any other means. This service will be provided based on the use code of the property determined by the county regulations, R1 through R-4, all other use codes will contract such services with a separate refuse hauler.
(Code 2015, § 3.15(1); Ord. No. O-2022-0926-11, § 3.15(1), 9-26-2022)

Sec. 17-155. Rules and regulations.

(a) *Containers required.* The customer shall keep on their premises city-owned and -provided containers for the storage of all refuse and recycling accumulated between collections. Each such container shall be watertight, having a tightfitting lid, be impervious to insects, rodents, vermin and nonabsorbent of moisture, and shall not exceed the size of the container either supplied or approved by the city for refuse collection. Containers shall not be stored in the required front yard setback. The recycling container shall be the same size or larger than the refuse container that is provided, to encourage recycling.

(1) Single-family: Standard size containers are 65-gallon refuse and 95-gallon recycling. Customers may choose the size; recycling container must be the same size or larger than the refuse cart.

(2) Duplexes: May choose to have one 95-gallon refuse and one 95-gallon recycling containers, at a minimum, or may choose one set of carts per unit, ensuring the recycling is the same size or larger than the refuse cart.

(3) Triplex/quadriplex: Only properties that are individually metered (each unit has its own water meter) may opt into the city's refuse services, the property will be required to have a minimum of two 95-gallon refuse and two 95-gallon recycling containers. These properties may opt out of city refuse services and be allowed to enter a contractual arrangement with a private waste hauler regardless of the number of metered utility units on their property.

(b) *Placing of containers city/private collection service.* If the sanitation truck makes the collection from the alley, containers supplied by the city or other hauler for collection shall be placed at the alley line. If street collections are made, containers supplied by the city or other hauler for collection shall be placed at the curbline. Containers shall not be placed in the public right-of-way prior to 6:00 p.m. the night before collection. Collection days for private pickup shall be on the same route day as the city pickup in that zone. All containers shall be removed from the right-of-way before 12:00 noon the day after collection and shall be stored in the manner conforming to this subsection.

(c) *Screening of containers-private collection service.* Containers provided for private refuse service, as approved by the city, shall be stored, and screened in compliance with section 10-1743.

(d) *Household refuse or recycling.* Contents of containers must only contain household refuse and recycling.

(e) *City-owned containers.* Containers will be the responsibility of the property owner and be cared for properly. Containers may be exchanged for different sizes based on consumer's needs, or if damaged, intentionally damaged, lost, stolen, overfilled, or used for inappropriate disposal of refuse or recycling will be subject to fees. Fees relating to the exchange of containers and care are established by resolution of the city council and provided in the city fee schedule.

(f) *Violations.* A violation of this section may result in the city administering penalties as established by resolution of the city council and provided in the city fee schedule.
(Code 2015, § 3.15(2); Ord. No. O-2022-0926-11, § 3.15(2), 9-26-2022)

Secs. 17-156—17-178. Reserved.

ARTICLE VI. SERVICE CONNECTIONS AND EQUIPMENT

Sec. 17-179. Application for service; connection and sale of service.

Application for municipal utility services shall be made upon forms supplied by the city, and strictly in accordance therewith. No connection shall be made until consent has been received from the city to make the same. All municipal utilities shall be sold and delivered to consumers as established by resolution of the city council and provided in the city fee schedule.
(Code 2015, § 3.03(2); Ord. No. O-2022-0926-11, § 3.03(2), 9-26-2022)

Sec. 17-180. Connection standards.

Each parcel shall have one connection to the city utilities. In the case of multiple dwellings or commercial units where the owner desires more than one meter installed on a service, written

request shall be made to the city for an inspection and approval of such multiple metering. All modular home communities shall utilize one service line for each utility and be provided with approved metering, which shall be located at the point of connection with the city main.
(Code 2015, § 3.03(14); Ord. No. O-2022-0926-11, § 3.03(14), 9-26-2022)

Sec. 17-181. Services to consumers outside the city.

(a) The city council may grant utility service to consumers outside the city on such conditions as it may deem reasonable in the public interest. Such consumers would be within a special service district, orderly annexation area, or a municipality. Such rights may be granted for a definite period, and if not granted for a definite period of time, such extension outside of the city limits may be terminated when deemed for the best interests of the city, upon one year's written notice from the city to the consumer.

(b) No portion of the cost of extending municipal utility services to consumers outside of the corporate limits of the city shall be paid for by the city. Persons outside of the city limits requesting utility service shall make application therefor to the city. The city manager shall submit the application to the city council for approval or rejection.

(c) Only water and wastewater service shall be provided outside of the corporate limits of the city and only to jurisdictions where the jurisdictions' comprehensive plan guides for sewer.

(d) Water service shall not be supplied without wastewater service, nor shall wastewater service be supplied without water service.

(e) Utility rates to water service consumers outside of the city limits shall be the regular rates plus 200 percent, which the city has deemed reasonable, just, and equitable. Utility rates to wastewater service consumers outside of the city limits shall be the regular rates.

(f) All utility mains, pipes and accessories for such connections shall be installed by the consumer at his own expense and shall conform to the established standards for material and installation methods as provided for and determined upon by the city from time to time.

(g) All utility mains, pipes and accessories installed and laid out on city streets or public property within the city shall become the property of the city after the same has been installed, but such installation shall be maintained and kept up by the consumer under the direction and in accordance with the regulations of the city, and after obtaining a permit from the city.

(h) Failure on the part of the consumer to repair or maintain any such utility service, pipes or accessories shall be deemed grounds for shutting off the utility, and in such case the utility shall not be turned on again until the utility service, pipes and accessories both in the city and outside the city are in good repair and conform to all regulations of the city and the water department, and a fee in the amount provided in the city fee schedule has been paid to the city.

(i) In the event annexation proceedings have been commenced by petition of the owners filed with the municipal board or by resolution or ordinance of the city affected township filed with the municipal board, a rebate of 200 percent of the water charges paid from the date the annexation proceedings were commenced shall be made upon the actual final annexation of the customer's property to the city.
(Code 2015, § 3.03(15); Ord. No. O-2022-0926-11, § 3.03(15), 9-26-2022)

Sec. 17-182. Connection charge.

No permit shall be granted for a connection to a utility for service to properties not assessed for such utility line, unless the applicant for the permit shall pay to the city connection fees or service fees as established by resolution of the city council and provided in the city fee schedule. Such connection or service fee shall be in lieu of any assessment and shall be considered a reasonable fee, comparable to assessments made for similar service connections at the time of the construction of the wastewater and water mains.
(Code 2015, § 3.03(16); Ord. No. O-2022-0926-11, § 3.03(16), 9-26-2022)

Sec. 17-183. Abandoned service.

In the case of a utility service being abandoned, service will be cut off at a point determined by the city manager or designee. If the owner neglects or refuses to complete the required work, the city shall cause the work to be done and bill the cost for the work to the owner.
(Code 2015, § 3.03(17); Ord. No. O-2022-0926-11, § 3.03(17), 9-26-2022)

Sec. 17-184. Service connection prior to paving and repaving.

Prior to street construction, the city shall determine where new services are required or where existing services need replacement or repair and shall notify the owner of the property affected that such construction or repair must be done within a specified time. If not made by such time, the city may cause the construction or repair made and assess the cost for the same against the benefited property.
(Code 2015, § 3.03(18); Ord. No. O-2022-0926-11, § 3.03(18), 9-26-2022)

Sec. 17-185. Water service line construction.

All water service lines and appurtenances connected to municipal utilities shall conform to the requirements of the city's standard utilities specifications for watermain installation and the state plumbing code.
(Code 2015, § 3.03(20); Ord. No. O-2022-0926-11, § 3.03(20), 9-26-2022)

Sec. 17-186. Water service pipe and fittings.

Water service pipe or fittings located on either side of the water meter shall be in accordance with the state plumbing code.
(Code 2015, § 3.03(21); Ord. No. O-2022-0926-11, § 3.03(21), 9-26-2022)

Sec. 17-187. Financial responsibility of service lines.

All cost for maintenance and abandonment of utility service lines is the responsibility of the property owner, from the water main including the corporation and from the sewer main including the wye connection to a point of connection to the owner's building.
(Code 2015, § 3.03(22); Ord. No. O-2022-0926-11, § 3.03(22), 9-26-2022)

Sec. 17-188. Meters.

(a) All water and wastewater shall be measured by meters, and such meters shall be installed by or under the direction of the city. Meters shall be in basements or utility rooms whenever possible, and all locations of meters shall be subject to the approval of the city. All meters shall be obtained from the city.

(b) When a consumer requests the city to test any utility meter in use and the meter is found to be inaccurate, the same shall be replaced with an accurate meter, and the deposit thereon refunded. If the meter shall be found to be accurate in its recordings or calculations, the deposit shall be retained by the city to defray the cost of such test, and the consumer shall pay any additional cost of removal and testing by the city; provided, however, that the city water meters of two inches or more in size shall be tested by the city or authorized contractor, and the consumer shall pay for such, inspection, and the cost of repairs, or cost of a new meter.

(c) The owner or consumer shall be held responsible for the care of the meter and will pay for all damage caused to meters.
(Code 2015, § 3.03(12); Ord. No. O-2022-0926-11, § 3.03(12), 9-26-2022)

Sec. 17-189. Remote water meter reading device.

All water meters shall be equipped with an encoder-receiver-transmitter (ERT/HRE) device. The ERT/HRE meter reading device shall be securely attached to the highest vertical unobstructed location from the water meter, in an upright position, facing the street in front of the property. The wire from the water meter to the ERT/HRE must be secured with plastic ties every six to eight inches to prevent accidental damage. If the water meter has an integral ERT (i.e., the ERT is attached to the meter), no other installation procedures are required. The city shall make the final decision on location of the remote outside meter reading device.
(Code 2015, § 3.03(19); Ord. No. O-2022-0926-11, § 3.03(19), 9-26-2022)

Sec. 17-190. Termination or suspension of service.

(a) *Grounds.* Any municipal utility may be terminated, discontinued, or suspended whenever:

(1) The owner or occupant of the property served, or any person working on any connection with a municipal utility has violated any requirement of this Code relative thereto; or

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

(3) The owner or occupant has permitted a person to sub connect another building or property to the owner or occupant's utility service.

(4) The owner or occupant of the property is in violation of a section of this Code and termination of service is authorized under this chapter.

(5) The owner fails to submit proof of well sealing within one year of the occurrence.

(b) *Procedure.*

(1) Prior to the termination or suspension of any utility, residential or nonresidential, the city shall forward to the owner or consumer a notice of termination, the cause for the termination or suspension, and that utility service to the property will be terminated or suspended ten days from notice, unless such owner/consumer shall remedy the cause for termination or suspension or request an appeal. The notice shall state the owner and consumer may, within ten days after service of termination notice, request, in writing, a hearing under chapter 2, article III, division 2.

(2) In the event the owner or consumer makes such a request, in writing, upon the city clerk, the city shall not terminate or suspend utility service until such time as the hearing officer has determined the matter.

(3) If an owner/consumer fails to remedy the cause for the termination or suspension and fails to request a hearing, service will be shut off at the time specified in the notice, which is generally ten days, unless the charges have not been noticed for at least 30 days, which, in that case, will be in 30 days from time of notice.

(Code 2015, § 3.03(7); Ord. No. O-2022-0926-11, § 3.03(7), 9-26-2022)

Secs. 17-191—17-218. Reserved.

ARTICLE VII. ACCOUNTS, RATES, BILLING, AND COLLECTION

DIVISION 1. GENERALLY

Sec. 17-219. Established by council.

All rates and charges for municipal utilities shall be established by resolution of the city council and included in the city fee schedule. Private utility companies desiring changes of rates or charges may petition the council for such changes.

(Code 2015, §§ 3.02, 3.16(1); Ord. No. O-2022-0926-11, § 3.16(1), 9-26-2022)

Sec. 17-220. Certification cycles.

The city council shall establish the number of certification cycles per year. At least one certification cycle will be timed each year to coincide with the county's requirements for certification to the following year's taxes. Additional certification cycles may be set in the annual rate schedule ordinance. Each year, the council shall establish one or more certification cutoff dates. All city utility

accounts, unless exempt for other legal reasons, which have been billed a delinquent bill and remain unpaid as of the certification cutoff date shall have the balance on the account included in a preliminary certification list.
(Code 2015, § 3.03(4); Ord. No. O-2022-0926-11, § 3.03(4), 9-26-2022)

Sec. 17-221. Water rates and fees.

(a) *Generally.* Every applicant for a permit to place a connection to a city water line, where such connection is to serve property not previously assessed for the cost of the line to which the connection is to be made, shall pay the connection fee as established by resolution of the city council and provided in the city fee schedule in addition to all other applicable permit, meter, street repair, trunk line usage, and plumbing fees. No such permit for such connection shall be issued until all fees have been paid through the permit process.

(b) *Fire inspection and connection fee.* In addition to any water rate, any party connecting a private fire system to the city water system shall pay a fire connection inspection and maintenance fee as established by resolution of the city council and provided in the city fee schedule.
(Code 2015, § 3.16(2), (3); Ord. No. O-2022-0926-11, § 3.16(2), (3), 9-26-2022)

Sec. 17-222. Wastewater rates and fees.

(a) *Charges established.* The following charges shall be established by resolution of the city council:

(1) The wastewater service charge for the use of and for service supplied by the city shall consist of a user charge for billing administration, operation, maintenance and replacement, and a debt service charge.

(2) For users discharging into the wastewater collection system having a BOD strength greater than 260 mg/L or TSS concentration greater than 280 mg/L, a surcharge per pound of each shall be levied in addition to the normal domestic strength rate charge.

(3) The wastewater service charges levied for all residential, commercial, industrial, or governmental/institutional discharges which are determined on the basis of flow shall be based on actual water meter readings, as applicable, unless the user proves that the established quantities of water as metered do not enter the wastewater system.

(4) Each water meter shall be considered as a separate billing unit or connection for the purpose of determining wastewater service charges and rates.

(5) Customers may be eligible for a one-time wastewater credit for an unforeseen circumstance if it is water that is disposed of or does not need treating (i.e., leaking toilet, water heater leak, etc.). Exception to this is water meters that are not charged for wastewater. The city will not credit usage from a domestic water meter for irrigation or outdoor usage, as a water meter can be installed for such purpose; see section 17-221. Requests for a credit will be directed to the city designee for review.

(b) *Review of user charge system for other jurisdictions.* The user charge system shall be adjusted annually to reflect changes in debt service requirements, operation, and maintenance costs and replacement costs.

(c) *Notification.* Once each year, the city shall either publish in the official newspaper or send to each user in conjunction with the regular bill a list of the sewer service charge rates being utilized. The listing shall separate rates for user charges (CUT/M), debt service for treatment (CDNT) and (CDET), collection system charges (CCS/M), and extra strength surcharge (CET) for BOD and TSS if applicable.

(d) *Outside water exempt from wastewater charge.* A water user may apply to have water line metered for irrigation use only in addition to water service metered within a building. Such application shall be applied for with a water meter permit.

(e) *Industrial pretreatment charge.* In addition to sewer service charges, an industrial pretreatment charge is imposed upon all industrial units of service subject to any of the requirements of the industrial pretreatment program established by the city. The following shall be applicable:

(1) The industrial pretreatment charge shall be in the amount necessary to recover the administrative costs associated with permitting and monitoring the discharge of industrial wastewater into the treatment system.

(2) Charges to individual industrial permittees shall be based on a man-hour and materials basis for time required under the industrial pretreatment program, at the employee cost rate, including fringe benefits, or shall be based on an established schedule of charges and fees.

(3) The council shall adopt industrial pretreatment charges and fees as established by resolution of the city council and provided in the city fee schedule.

(4) All costs of laboratory analyses of wastewater constituents for an individual discharge permittee shall be borne by that individual industrial permittee.

(Code 2015, § 3.16(4)—(9); Ord. No. O-2022-0926-11, § 3.16(4)—(9), 9-26-2022)

Sec. 17-223. Refuse collection charges.

(a) *Residential charge.* The residential refuse collection charge shall be established by resolution of the city council. The monthly refuse collection charge shall be for removal of refuse and recycling from such dwelling once a week for refuse and every other week for recycling. A set of city-owned containers will be provided for refuse and recycling, based on the property description (single-family dwelling, duplex, triplex, or quadriplex).

(b) *Commercial charges.* Commercial refuse collection charges shall be determined by negotiations between the owner or occupancy of the premises served and the licensed refuse hauler.

(c) *Billing determination.* Each single-family residential unit and each duplex unit receiving water meter service shall be charged for refuse collection during each month water service is provided.

(d) *Temporary service interruption at owner's request.* Property owners wishing to temporarily discontinue the use of refuse collection shall notify the city to that effect. Monthly fees for this service will be suspended until reinstatement of the services is requested. The period of temporary suspension of refuse collection shall not exceed six months in any 12 consecutive months.
(Code 2015, § 3.16(10); Ord. No. O-2022-0926-11, § 3.16(10), 9-26-2022)

Sec. 17-224. Stormwater drainage utility.

The city has established a stormwater drainage utility in and for the city which is operated as a public utility pursuant to the city Charter, this Code, and applicable statutes. The revenues therefrom shall be derived subject to the provisions of this section and M.S.A. ch. 444.

(1) Stormwater drainage surcharges shall be established as follows:
   a. A residential unit charge shall be considered one metered unit.
   b. A duplex unit charge shall be considered two metered units.
   c. The stormwater drainage utility rate will be established by resolution of the city council.
   d. All other properties shall be charged at a rate established by resolution of the city council.

(2) Exemptions. The following land uses are exempt from stormwater drainage utility surcharges:
   a. Public rights-of-way.
   b. Lakes, wetlands, rivers.
   c. Dedicated cemeteries.

(3) Recalculation of charge. If the property owner or person responsible for paying the stormwater drainage utility charge questions the correctness of, such person may have the determination of the charge recomputed by filing a written request to the city and shall be finally resolved by vote of the city council.

(Code 2015, § 3.16(11); Ord. No. O-2022-0926-11, § 3.16(11), 9-26-2022)

Sec. 17-225. Street lighting system utility.

The city has established a street lighting system utility for the city which is operated as a public utility pursuant to city Charter, this Code, and applicable statutes. The use of revenues generated by the fees imposed by this utility shall be subject to provisions of this section and M.S.A. ch. 429. The system consists of all street lighting facilities, whether owned by the city or other, for which the city purchases and supplies electrical energy, and the district includes all property within the city. Utility rates and charges shall be as follows:

(1) *Streetlight charges.* The street lighting charges imposed by this chapter will be based on land use. A flat rate fee, as provided in the city fee schedule, will be imposed for single, two, and three unit family residential properties and commercial/industrial properties with under 75-foot frontage. All residential, commercial, industrial, and other property categories will be subject to a per unit or per total frontage rate within the city billing system.

(2) *Calculation of charges.* The fee to be billed each billing unit shall be a fair and equitable share of the total costs of the system. Further, service charges shall be apportioned to similar classes of property similarly. From time to time the city council shall adopt a resolution establishing a class charge rate calculation table for all billing units.

(3) *Billings and collections.* Streetlighting service charges shall be included on the utility bill.

(4) *Adjustment of charges.* If an owner or person responsible for paying the street lighting charge questions the correctness of such a charge, such person may have the determination of the charge recomputed by filing a written request to the city and shall be finally resolved by vote of the city council.

(Code 2015, § 3.16(12); Ord. No. O-2022-0926-11, § 3.16(12), 9-26-2022)

Sec. 17-226. Dishonored check fee.

A fee is established by resolution of the city council, as provided in the city fee schedule, for any check not honored by a customer's bank or financial institution. Customers may also be charged a fee for insufficient funds in an amount that is reasonably related to costs incurred by the city as a result of insufficient funds.

(Code 2015, § 3.03(4); Ord. No. O-2022-0926-11, § 3.03(4), 9-26-2022)

Sec. 17-227. Customer statements for utility charges.

(a) Charges for all municipal utilities shall be made in utility statements forwarded to the property owner at such intervals as the council may determine or as set forth herein. Property owners are ultimately responsible for all municipal utility charges.

(b) Municipal utility charges shall be billed on one bill as applicable to each account. Property owners are ultimately responsible for all municipal utility charges. Municipal utility accounts established under the new utility service agreement and subject to a landlord tenant agreement shall have bills sent to the tenant with copies of the bill sent via e-mail to property owners. All charges for municipal utilities shall be due upon receipt and considered delinquent if not paid on or before the due date set forth on a utility statement, provided that in the event such due date is a Saturday, Sunday or legal holiday, utility charges shall not be delinquent until the following business day. All bills shall contain the title, address, and telephone number of the official in charge of billing; the title, address and telephone number shall be clearly visible and easily readable.

(Code 2015, § 3.03(3), (4); Ord. No. O-2022-0926-11, § 3.03(3), (4), 9-26-2022)

Sec. 17-228. Change in ownership.

When there is a change of property ownership or other change in responsibility for paying the charges, the property owner, or in the case of when a new utility service agreement has been executed, the consumer must notify the city. The meter will be read at that time to determine the final bill. If a final utility statement, due to a change of ownership on a property, remains unpaid for 30

days, that account is subject to being turned over to a collection agency with an additional fee added to the final billed amount, as established by resolution of the city council and provided in the city fee schedule.
(Code 2015, § 3.03(8); Ord. No. O-2022-0926-11, § 3.03(8), 9-26-2022)

Sec. 17-229. Temporary service interruption at owner's request.

Property owners wishing to temporarily discontinue the use of utilities at a property shall notify the city to that effect. The utilities shall be then turned off at the curb shutoff box, and the charges for consumption shall cease; however, the monthly cost of service for water, wastewater, streetlights, and stormwater will remain in effect.
(Code 2015, § 3.03(9); Ord. No. O-2022-0926-11, § 3.03(9), 9-26-2022)

Secs. 17-230—17-251. Reserved.

DIVISION 2. DELINQUENT ACCOUNTS

Sec. 17-252. Regulations on past due collection and nonpayment of services.

(a) *Late payment penalty.* A late payment penalty on any unpaid balance, as established by resolution of the city council and provided in the city fee schedule, shall be assessed on all accounts with a past due balance.

(b) *Shutoff for nonpayment.* Water shall not be shut off until notice and an opportunity for a hearing have been provided to the occupant and owner of the premises involved.

(1) If any bill is not paid by the due date listed on the bill and if payments of such amounts are not made after three consecutive billing cycles following the determination of delinquency, the city may terminate or suspend the utility service to any property where the utility charge has become delinquent, in which event such utility service shall not be restored until a service reconnection charge has been paid in such amount as established by resolution of the city council and provided in the city fee schedule.

(2) Prior to the termination or suspension of any utility, the city shall forward to the owner and consumer a notice of termination, the cause for the termination or suspension, and that utility service to the property will be terminated or suspended in ten days unless such owner/consumer shall remedy the cause for termination or suspension or request an appeal hearing. The notice shall state the owner and consumer may, within ten days after service of termination notice, request, in writing, a hearing under chapter 2, article III, division 2 before a hearing officer to be selected by the city for the purpose of determining whether the termination or suspension is proper.

(3) In the event the owner or consumer makes such a request, in writing, upon the city clerk, the city shall not terminate or suspend utility service until such time as the hearing officer has determined the matter.

(4) If a customer fails to pay and fails to request a hearing, service will be shut off at the time specified in the notice within ten days unless the charges have not been due and unpaid for at least 30 days in which case the city would wait until the 30-day timeframe for payment has lapsed.

(c) *Certification for collection with taxes.* Unpaid charges on sewer and water accounts shall not be certified to the county auditor until notice and an opportunity for a hearing, per chapter 2, article III, division 2, have been provided to the owner of the premises involved. The notice shall be sent by first class mail to the property owner, and if a new utility service agreement is on file with the city for the property, then notice shall be sent by first class mail to the tenant as well. The notice shall state that if payment is not made before the date for certification, the entire amount unpaid, plus penalties, will be certified to the county auditor for collection as other taxes are collected. The notice shall also state that the occupant may, before such certification date, request a hearing on the matter to object to certification of unpaid utility charges.

(d) *Optional payment before certification.* The owner of the property shall have the option of paying the balance due on the account until the date the notice of the certification hearing is mailed. After the date the notice of certification hearing is mailed, payments will still be accepted but will include unpaid penalties.

(e) *Hearing.* A hearing, if requested, shall be held on the matter following chapter 2, article III, division 2. Property owners with unpaid utility charges shall have the opportunity to object to the certification of unpaid charges to be collected as taxes are collected. If, after the hearing, the hearing officer finds that the amounts claimed as delinquent are due and unpaid and that there is no legal reason why the unpaid charges should not be certified for collection with taxes in accordance with this article, the city may certify the unpaid charges to the county auditor for collection as other taxes are collected.

(f) *Hearing options.* For each certification sustained, the property owner shall have the following options after the hearing:

(1) To pay the delinquent amount listed on the preliminary roll, but without additional interest within 20 days up to and after the hearing date.

(2) To pay the certified delinquent amount after the hearing date, but before the county certification deadline, a late fee equal to ten percent of the amount of the original fine shall be imposed, as provided in the city fee schedule, accrued beginning on 21st day following the hearing date through the date of payment.

(3) To pay the certified charges as billed to them by the county on their property tax statement with a collection term of one year.

(4) 15 days after the hearing, the certified roll, minus any payments, shall be delivered to the county.

(g) *Tenant protection.*

(1) Tenants have the right under state law, M.S.A. § 504B.215, subd. 3, to continue or restore service. If the city issues a final notice proposing to disconnect or discontinue the service to

a building because a landlord who has contracted for the service has failed to pay for it or because a landlord is required by law or contract to pay for the service and fails to do so, the city will provide notice to the residents of the impending disconnection by posting the building. The posting will be placed in at least one conspicuous location in or on the building and provide tenants with, at a minimum, the following information:

a. The date the service will be discontinued; and

b. The telephone number to call at the utility to obtain further information; and

c. A brief description of the rights of tenants under this section to continue or restore service; and

d. Advice to consider seeking assistance from legal aid, a private attorney, or a housing organization in exercising the rights of tenants under state law to maintain their utility service.

(2) A tenant or group of tenants may pay to have the service continued or reconnected as provided under this section. Before paying for the service, the tenant or group of tenants shall give oral or written notice to the landlord of the tenant's intention to pay after 48 hours, or a shorter period that is reasonable under the circumstances, if the landlord has not already paid for the service. In the case of oral notification, written notice shall be mailed or delivered to the landlord within 24 hours after oral notice is given.

(3) In the case of water, if the landlord has not paid the bill by the time of the tenant's intended payment or if the service remains discontinued, upon request from a tenant, a municipality must provide a copy of each bill the landlord fails to pay. The tenant:

a. Has a continuing right to pay the current charges for the most recent billing period and retain service;

b. Has the period of time provided by the governing ordinance, policy, or practice within which to pay the charges;

c. Is not subject to any deposit requirements; and

d. Is entitled to reasonable notice of any disconnection.

(h) *Military service personnel.* The city will not disconnect the utility service of a residential customer if a member of the household has been issued orders into active duty, for deployment, or for a permanent change in duty station during the period of active duty, deployment, or change in duty station if such a residential customer subject to the requirements of M.S.A. § 325E.028.

(i) *Extreme heat conditions.* Any residential utility will not be involuntarily disconnected when an excessive heat watch, heat advisor, or excessive heat warning issued by the National Weather Service is in effect per M.S.A. § 216B.0975.

(j) *Cold weather rule.* A residential utility will not be disconnected and will be reconnected during the period between October 1 and April 30 if the disconnect affects the primary heat source for the residential unit and all the conditions of M.S.A. § 216B.097 are met.
(Code 2015, § 3.03(5); Ord. No. O-2022-0926-11, § 3.03(5), 9-26-2022)

Sec. 17-253. Other remedies.

In addition to any procedures or penalties provided for this article if any person or entity fails to comply with any provision of this article, the council, or any city official designated by it may institute appropriate proceedings at law or at equity to procure payment or enforce the provisions of this article.

(Code 2015, § 3.03(6); Ord. No. O-2022-0926-11, § 3.03(6), 9-26-2022)

CODE COMPARATIVE TABLE

2015 CODE

The following table gives the location within the Code of sections of the 2015 Code, as supplemented through November 28, 2022.

2015 Code Section	Code Section	2015 Code Section	Code Section
1.01	1-1	3.03(22)	17-187
1.02	1-2	3.04	17-29
1.03	1-3	3.05	17-30
1.04	1-8	3.06	17-31
1.05	1-9	3.07	17-32
2.01	2-1	3.08	17-33
2.02	2-2	3.09	17-34
2.03	2-3	3.10	17-71
2.04	2-4	3.11(intro. ¶)	17-57
2.05	2-5	3.11(1)	17-58
2.06	2-6	3.11(2)	17-59
2.07	2-7	3.11(3)	17-60
2.08	2-8	3.11(4)	17-61
2.09	2-35	3.11(5)	17-62
2.11	2-36	3.11(6)	17-63
2.12	2-37	3.11(7)	17-64
2.13	2-38	3.11(8)	17-65
2.14	2-39	3.11(9)	17-66
3.01	17-1	3.11(10)	17-67
3.02	17-219	3.11(11)	17-68
3.03(2)	17-179	3.11(12)	17-69
3.03(3)	17-227	3.11(13)	17-70
3.03(4)	17-220	3.12	17-101
—	17-226	3.13(1)	17-131
—	17-227	3.13(2)	17-132
3.03(5)	17-252	3.13(3)	17-133
3.03(6)	17-253	3.13(4)	17-134
3.03(7)	17-190	3.14	17-135
3.03(8)	17-228	3.15(1)	17-154
3.03(9)	17-229	3.15(2)	17-155
3.03(10)	17-3	3.16(1)	17-219
3.03(11)	17-4	3.16(2)	17-221
3.03(12)	17-188	3.16(3)	17-221
3.03(13)	17-5	3.16(4)	17-222
3.03(14)	17-180	3.16(5)	17-222
3.03(15)	17-181	3.16(6)	17-222
3.03(16)	17-182	3.16(7)	17-222
3.03(17)	17-183	3.16(8)	17-222
3.03(18)	17-184	3.16(9)	17-222
3.03(19)	17-189	3.16(10)	17-223
3.03(20)	17-185	3.16(11)	17-224
3.03(21)	17-186	3.16(12)	17-225

2015 Code Section	Code Section	2015 Code Section	Code Section
3.17	17-2	5.33(8)	6-78
4.02	3-1	5.35(1)	6-104
4.03	3-2	5.35(2)	6-105
4.04(1)	3-48	5.35(3)	6-106
4.04(2)	3-49	5.35(5)	6-107
4.04(3)	3-50	5.35(6)	6-108
4.04(4)	3-51	5.35(7)	6-109
4.04(5)	3-52	5.35(8)	6-110
4.04(6)	3-53	5.35(9)	6-111
4.04(7)	3-54	5.35(10)	6-112
4.04(8)	3-55	5.35(11)	6-113
4.04(9)	3-55	5.36(1)	6-142
4.04(10)	3-56	5.36(2)	6-143
4.04(11)	3-57	5.36(4)	6-144
4.04(12)	3-58	5.36(5)	6-145
4.04(13)	3-59	5.36(6)	6-146
4.05(1)	3-77	5.36(7)	6-147
4.05(2)	3-78	5.36(8)	6-148
4.05(3)	3-79	5.36(9)	6-149
4.05(4)	3-80	5.36(10)	6-150
4.06(intro. ¶)	3-104	5.36(11)	6-151
4.06(1)	3-104	5.36(12)	6-152
—	3-105	5.36(13)	6-153
4.06(1)(A)	3-106	5.36(14)	6-154
4.06(1)(B)(1)	3-106	5.37(1)	6-179
4.06(1)(B)(2)	3-106	5.37(2)	6-180
4.06(1)(B)(3)	3-106	5.37(4)	6-181
4.06(1)(B)(4)	3-106	5.37(5)	6-182
4.06(1)(B)(5)	3-106	5.37(6)	6-183
4.06(1)(B)(6)	3-107	5.37(7)	6-184
4.07	3-161	5.37(8)	6-185
4.08(1)	3-128	5.37(9)	6-186
4.08(2)	3-129	5.37(10)	6-187
4.09	3-157	5.37(11)	6-188
4.10	3-158	5.37(12)	6-189
4.11	3-159	5.37(13)	6-190
4.12	3-160	5.37(14)	6-191
4.13	3-162	5.37(15)	6-192
4.14	3-163	5.37(16)	6-193
4.15	3-164	5.37(17)	6-194
5.01	6-19	5.37(18)	6-195
5.02	6-20	5.37(19)	6-196
5.03	6-21	5.38(1)	6-218
5.04	6-22	5.38(2)	6-219
5.33(1)	6-72	5.38(3)	6-220
5.33(2)	6-73	5.38(5)	6-221
5.33(4)	6-74	5.38(6)	6-222
5.33(5)	6-75	5.38(7)	6-223
5.33(6)	6-76	5.38(8)	6-224
5.33(7)	6-77	5.38(9)	6-225

2015 Code Section	Code Section	2015 Code Section	Code Section
5.38(10)	6-226	5.45(1)	6-313
5.38(11)	6-227	5.45(2)	6-314
5.38(12)	6-228	5.47(1)	9-19
5.38(13)	6-229	5.47(2)	9-20
5.38(14)	6-230	5.47(4)	9-21
5.38(15)	6-231	5.47(5)	9-22
5.38(16)	6-232	5.47(6)	9-23
5.38(17)	6-233	5.47(7)	9-24
5.38(18)	6-234	5.50(1)	9-52
5.38(19)	6-235	5.50(2)	9-53
5.38(20)	6-236	5.50(3)	9-54
5.38(21)	6-237	5.50(4)	9-55
5.39(1)	6-270	5.50(5)	9-56
5.39(2)	6-271	5.50(6)	9-57
5.39(3)	6-272	5.50(7)	9-58
5.39(4)	6-273	5.50(8)	9-59
5.39(5)	6-274	5.51(1)	6-332
5.39(6)	6-275	5.51(2)	6-333
5.39(7)	6-276	5.51(3)	6-334
5.39(8)	6-277	5.51(4)	6-335
5.39(9)	6-278	5.51(5)	6-336
5.40	6-49	5.51(7)	6-337
5.42(1)	7-1	5.51(8)	6-338
5.42(2)	7-1	5.51(9)	6-339
5.42(3)	7-2	5.51(10)	6-340
5.42(4)	7-25	5.51(11)	6-341
5.42(5)	7-27	5.51(12)	6-342
5.42(6)	7-27	5.51(13)	6-343
5.42(7)	7-28	5.51(14)	6-344
5.42(8)	7-50	5.51(15)	6-345
5.42(9)	7-51	5.51(16)	6-346
5.42(10)	7-30	5.51(17)	6-347
5.42(11)	7-52	6.01	14-1
5.42(12)	7-53	—	16-1
5.42(14)	7-54	—	16-132
5.42(15)	7-55	6.02(1)	16-2
5.42(16)	7-56	6.02(2)	16-3
5.42(17)	7-55	6.03	14-2
5.42(18)	7-109	6.04(1)	14-148
5.42(20)	7-57	6.04(2)	14-149
5.42(21)	7-29	6.04(3)	14-150
5.42(22)	7-110	6.04(4)	14-151
5.43(1)	6-305	6.04(5)	14-152
5.43(2)	6-306	6.04(6)	14-153
5.43(3)	6-307	6.04(7)	14-154
5.43(4)	6-308	6.04(8)	14-155
5.43(5)	6-309	6.04(9)	14-156
5.44(1)	6-310	6.04(10)	14-157
5.44(2)	6-311	6.05(1)(A)	14-8
5.44(3)	6-312	6.05(1)(B)	14-8

2015 Code Section	Code Section	2015 Code Section	Code Section
6.05(1)(C)	14-9	6.18(8)	14-190
6.05(1)(D)	14-9	6.19(1)	16-133
6.05(2)	14-8	6.19(2)	16-134
6.05(3)	14-8	6.19(3)	16-135
6.05(4)	14-8	6.19(4)	16-136
6.05(5)	14-8	6.19(5)	16-137
6.06(1)	14-43	6.19(6)	16-138
6.06(2)	14-44	6.19(7)	16-139
6.06(3)	14-45	6.19(8)	16-140
6.06(4)	14-46	6.19(9)	16-141
6.06(5)	14-47	6.20(1)	14-109
6.06(6)	14-48	6.20(2)	14-110
6.06(7)	14-49	6.20(3)	14-111
6.06(8)	14-50	6.20(4)	14-112
6.06(9)	14-51	6.20(5)	14-113
6.06(10)	14-52	6.20(6)	14-114
6.06(11)	14-53	6.20(7)	14-115
6.06(12)	14-54	6.20(8)	14-116
6.06(13)	14-55	6.20(9)	14-117
6.06(14)	14-56	7.01	16-4
6.06(15)	14-57	7.02	16-5
6.06(16)	14-58	7.03	16-6
6.06(17)	14-59	7.04	16-35
6.06(18)	14-60	7.05	16-36
6.06(19)	14-61	7.054	16-37
6.06(20)	14-62	7.055	16-38
6.06(21)	14-63	7.06(1)	16-63
6.07	14-12	7.06(2)	16-64
6.08	14-7	7.06(3)	16-65
6.09	14-11	7.06(4)	16-66
6.10	14-3	7.06(5)	16-67
6.12	14-4	7.06(6)	16-68
6.13	14-5	7.06(7)	16-69
6.14	14-10	7.06(8)	16-70
6.15	14-6	7.06(9)	16-71
6.16(1)	14-84	7.06(10)	16-72
6.16(2)	14-85	7.07	16-7
6.16(3)	14-86	7.08	16-7
6.16(4)	14-87	7.09	16-8
6.16(5)	14-88	7.10(1)	16-103
6.16(6)	14-89	7.10(2)	16-104
6.16(7)	14-90	7.10(3)	16-105
6.17	13-11	7.10(4)	16-106
6.18(1)	14-183	7.10(5)	16-107
6.18(2)	14-184	7.10(6)	16-108
6.18(3)	14-185	7.10(7)	16-109
6.18(4)	14-186	8.01	16-166
6.18(5)	14-187	8.02	16-167
6.18(6)	14-188	8.03	16-168
6.18(7)	14-189	8.04	16-169

2015 Code Section	Code Section	2015 Code Section	Code Section
8.05	16-170	9.31(11)(J)	4-83
8.06	16-171	9.31(11)(K)	4-84
8.065	16-172	9.31(11)(L)	4-85
8.07	16-173	9.31(11)(M)	4-86
8.08	16-174	9.31(11)(N)	4-87
8.09	16-175	9.31(11)(O)	4-88
8.10	16-176	9.31(12)	4-2
8.11(1)	16-181	9.47	12-21
8.12	16-177	9.48	12-22
8.13	16-178	9.61(1)	4-1
8.14	16-179	9.61(2)	4-7
8.15	16-182	9.61(3)	4-3
9.001	12-1	9.61(4)	4-3
9.01	11-61	9.61(5)	4-4
9.02	11-62	9.62	12-26
9.03	11-63	9.66	11-5
9.13	11-32	9.67	11-36
9.14	11-35	9.70	12-23
9.15	11-33	9.72	12-24
9.16	11-34	9.73(1)	11-109
9.19(1)	11-85	9.73(2)	11-110
9.19(2)	11-86	9.73(3)	11-111
9.19(3)	11-87	9.73(4)	11-112
9.19(4)	11-88	9.73(5)	11-113
9.19(5)	11-89	9.73(6)	11-114
9.19(6)	11-90	9.73(7)	11-115
9.31(1)	4-1	9.73(8)	11-116
9.31(2)	4-37	9.74	12-25
9.31(3)	4-38	9.76	4-5
9.31(4)	4-8	9.77(1)(intro. ¶)	11-1
9.31(5)(A)	4-1	9.77(1)(A)	11-1
9.31(5)(B)	4-40	9.77(1)(B)	11-1
9.31(5)(C)	4-40	9.77(1)(C)	11-1
9.31(6)	4-41	9.77(1)(D)	11-1
9.31(7)(A)	4-39	9.77(1)(E)	11-1
9.31(7)(B)	4-39	9.77(1)(end ¶)	11-11
9.31(7)(C)	4-39	9.77(2)	11-2
9.31(7)(D)	4-42	9.77(3)	11-5
9.31(8)	4-9	9.77(4)	11-9
9.31(9)	4-43	9.77(5)	11-6
9.31(10)	4-6	9.77(7)	11-7
9.31(11)(A)	4-1	9.77(8)	11-8
9.31(11)(B)	4-75	9.77(9)	11-10
9.31(11)(C)	4-76	9.77(10)(intro. ¶)	11-2
9.31(11)(D)	4-77	9.77(10)(A)	11-3
9.31(11)(E)	4-78	9.77(10)(B)	11-4
9.31(11)(F)	4-79	9.77(11)	11-12
9.31(11)(G)	4-80	9.77(12)	11-13
9.31(11)(H)	4-81	9.77(13)	11-14
9.31(11)(I)	4-82	10.01	10-1

2015 Code Section	Code Section	2015 Code Section	Code Section
10.02	10-2	10.16(3)	10-202
10.03	10-3	10.16(4)	10-203
10.04	10-4	10.16(5)	10-204
10.05	10-5	10.16(6)	10-205
10.06	10-6	10.16(7)	10-206
10.07	10-7	10.16(8)	10-207
10.11(1)	10-33	10.16(9)	10-208
10.11(2)	10-34	10.16(10)	10-209
10.11(3)	10-35	10.17(1)	10-227
10.11(4)	10-36	10.17(2)	10-228
10.11(5)	10-37	10.17(3)	10-229
10.11(6)	10-38	10.17(4)	10-230
10.11(7)	10-39	10.17(5)	10-231
10.11(8)	10-40	10.17(6)	10-232
10.11(9)	10-41	10.17(7)	10-233
10.11(10)	10-42	10.17(8)	10-234
10.12(1)	10-73	10.17(9)	10-235
10.12(2)	10-74	10.17(10)	10-236
10.13(1)	10-92	10.18(1)	10-266
10.13(2)	10-93	10.18(2)	10-267
10.13(3)	10-94	10.18(3)	10-268
10.13(4)	10-95	10.18(4)	10-269
10.13(5)	10-96	10.18(5)	10-270
10.13(6)	10-97	10.18(6)	10-271
10.13(7)	10-98	10.18(7)	10-272
10.13(8)	10-99	10.18(8)	10-273
10.13(9)	10-100	10.18(9)	10-274
10.13(10)	10-101	10.18(10)	10-275
10.14(1)	10-131	10.18(11)	10-276
10.14(2)	10-132	10.21(1)	10-319
10.14(3)	10-133	10.21(2)	10-320
10.14(4)	10-134	10.21(3)	10-321
10.14(5)	10-135	10.21(4)	10-322
10.14(6)	10-136	10.21(5)	10-323
10.14(7)	10-137	10.21(6)	10-324
10.14(8)	10-138	10.21(7)	10-325
10.14(9)	10-139	10.21(8)	10-326
10.14(10)	10-140	10.21(9)	10-327
10.15(1)	10-164	10.21(10)	10-328
10.15(2)	10-165	10.21(11)	10-329
10.15(3)	10-166	10.31(1)	10-367
10.15(4)	10-167	10.31(3)	10-368
10.15(5)	10-168	10.31(4)	10-369
10.15(6)	10-169	10.31(5)	10-370
10.15(7)	10-170	10.31(6)	10-371
10.15(8)	10-171	10.31(7)	10-372
10.15(9)	10-172	10.31(8)	10-373
10.15(10)	10-173	10.31(9)	10-374
10.16(1)	10-200	10.31(10)	10-375
10.16(2)	10-201	10.31(11)	10-376

2015 Code Section	Code Section	2015 Code Section	Code Section
10.31(12)	10-377	10.45(7)	10-585
10.31(13)	10-378	10.45(8)	10-586
10.31(14)	10-379	10.45(9)	10-587
10.41(1)	10-431	10.45(10)	10-588
10.41(2)	10-432	10.45(11)	10-589
10.41(3)	10-433	10.46(1)	10-612
10.41(4)	10-434	10.46(2)	10-613
10.41(5)	10-435	10.46(3)	10-614
10.41(6)	10-436	10.46(4)	10-615
10.41(7)	10-437	10.46(5)	10-616
10.41(8)	10-438	10.46(6)	10-617
10.41(9)	10-439	10.46(7)	10-618
10.41(10)	10-440	10.46(8)	10-619
10.42(1)	10-464	10.46(9)	10-620
10.42(2)	10-465	10.46(10)	10-621
10.42(3)	10-466	10.46(11)	10-622
10.42(4)	10-467	10.47(1)	10-648
10.42(5)	10-468	10.47(2)	10-649
10.42(6)	10-469	10.47(3)	10-650
10.42(7)	10-470	10.47(4)	10-651
10.42(8)	10-471	10.47(5)	10-652
10.42(9)	10-472	10.47(6)	10-653
10.43(1)	10-498	10.47(7)	10-654
10.43(2)	10-499	10.47(8)	10-655
10.43(3)	10-500	10.47(9)	10-656
10.43(4)	10-501	10.47(10)	10-657
10.43(5)	10-502	10.47(11)	10-658
10.43(6)	10-503	10.48(intro. ¶)	10-690
10.43(7)	10-504	10.48(1)(1)	10-709
10.43(8)	10-505	10.48(1)(2)	10-710
10.43(9)	10-506	10.48(1)(3)	10-711
10.43(10)	10-507	10.48(1)(4)	10-712
10.43(11)	10-508	10.48(1)(5)	10-713
10.44(1)	10-540	10.48(1)(6)	10-714
10.44(2)	10-541	10.48(1)(7)	10-715
10.44(3)	10-542	10.48(1)(8)	10-716
10.44(4)	10-543	10.48(2)(1)	10-746
10.44(5)	10-544	10.48(2)(2)	10-747
10.44(6)	10-545	10.48(2)(3)	10-748
10.44(7)	10-546	10.48(2)(4)	10-749
10.44(8)	10-547	10.48(2)(5)	10-750
10.44(9)	10-548	10.48(2)(6)	10-751
10.44(10)	10-549	10.48(2)(7)	10-752
10.44(11)	10-550	10.48(2)(8)	10-753
10.45(1)	10-579	10.48(2)(9)	10-754
10.45(2)	10-580	10.48(2)(10)	10-755
10.45(3)	10-581	10.48(2)(11)	10-756
10.45(4)	10-582	10.48(3)(1)	10-781
10.45(5)	10-583	10.48(3)(2)	10-782
10.45(6)	10-584	10.48(3)(3)	10-783

2015 Code Section	Code Section	2015 Code Section	Code Section
10.48(3)(4)	10-784	10.62(8)	10-976
10.48(3)(5)	10-785	10.62(9)	10-977
10.48(3)(6)	10-786	10.62(10)	10-978
10.48(3)(7)	10-787	10.63(1)	10-1000
10.48(3)(8)	10-788	10.63(2)	10-1001
10.48(3)(9)	10-789	10.63(3)	10-1002
10.48(3)(10)	10-790	10.63(4)	10-1003
10.48(3)(11)	10-791	10.63(5)	10-1004
10.48(4)(1)	10-821	10.63(6)	10-1005
10.48(4)(2)	10-822	10.63(7)	10-1006
10.48(4)(3)	10-823	10.63(8)	10-1007
10.48(4)(4)	10-824	10.64(1)	10-1028
10.48(4)(5)	10-825	10.64(2)	10-1029
10.48(4)(6)	10-826	10.64(3)	10-1030
10.48(4)(7)	10-827	10.64(4)	10-1031
10.48(4)(8)	10-828	10.64(5)	10-1032
10.48(4)(9)	10-829	10.64(6)	10-1033
10.48(5)(1)	10-852	10.64(7)	10-1034
10.48(5)(2)	10-853	10.64(8)	10-1035
10.48(5)(3)	10-854	10.65(1)	10-1054
10.48(5)(4)	10-855	10.65(2)	10-1055
10.51(1)	10-895	10.65(3)	10-1056
10.51(2)	10-896	10.66(1)	10-1057
10.51(3)	10-897	10.66(2)	10-1058
10.51(4)	10-898	10.66(3)	10-1059
10.51(5)	10-899	10.66(4)	10-1060
10.51(6)	10-900	10.66(5)	10-1061
10.51(7)	10-901	10.66(6)	10-1062
10.51(8)	10-902	10.66(7)	10-1063
10.51(9)	10-903	10.66(8)	10-1064
10.51(10)	10-904	10.67(1)	10-1115
10.51(11)	10-905	10.67(2)	10-1116
10.51(12)	10-906	10.67(3)	10-1117
10.61(1)	10-931	10.67(4)	10-1118
10.61(2)	10-932	10.67(5)	10-1119
10.61(3)	10-933	10.67(6)	10-1120
10.61(4)	10-934	10.67(7)	10-1121
10.61(5)	10-935	10.68(1)	10-1151
10.61(6)	10-936	10.71(1)	10-1209
10.61(7)	10-937	10.71(2)	10-1210
10.61(8)	10-938	10.71(3)	10-1211
10.61(9)	10-939	10.71(4)	10-1212
10.61(10)	10-940	10.72	10-1213
10.62(1)	10-969	10.73(1)	10-1245
10.62(2)	10-970	10.73(2)	10-1246
10.62(3)	10-971	10.73(3)	10-1247
10.62(4)	10-972	10.73(4)	10-1248
10.62(5)	10-973	10.74(1)	10-1270
10.62(6)	10-974	10.74(2)	10-1271
10.62(7)	10-975	10.74(3)	10-1272

2015 Code Section	Code Section	2015 Code Section	Code Section
10.74(4)	10-1273	10.83(2)	10-1538
10.74(5)	10-1274	10.83(3)	10-1539
10.74(6)	10-1275	10.83(4)	10-1540
10.74(7)	10-1276	10.83(5)	10-1541
10.75(1)	10-1296	10.83(6)	10-1542
10.75(2)	10-1297	10.83(7)	10-1543
10.75(3)	10-1298	10.84(1)	10-1575
10.76(1)	10-1325	10.84(2)	10-1576
10.76(2)	10-1326	10.84(3)	10-1577
10.77(1)	10-1351	10.84(4)	10-1578
10.77(2)	10-1352	10.84(5)	10-1579
10.77(3)	10-1353	10.84(6)	10-1580
—	10-1354	10.84(8)	10-1581
10.78(1)	10-1377	10.84(9)	10-1582
10.78(2)	10-1378	10.84(10)	10-1583
10.79(1)	10-1410	10.85(1)	10-1610
10.79(2)	10-1411	10.85(2)	10-1611
10.79(3)	10-1412	10.85(3)	10-1612
10.80(1)	10-1433	10.85(4)	10-1613
10.80(2)	10-1434	10.85(5)	10-1614
10.81(1)	10-1462	10.85(6)	10-1615
10.81(2)	10-1463	10.85(7)	10-1616
10.81(3)	10-1464	10.85(8)	10-1617
10.81(4)	10-1465	10.85(9)	10-1618
10.81(5)	10-1466	10.85(10)	10-1619
10.81(6)	10-1467	10.85(11)	10-1620
10.81(7)	10-1468	10.85(12)	10-1621
10.81(8)	10-1469	10.85(13)	10-1622
10.81(9)	10-1470	10.85(14)	10-1623
10.81(10)	10-1471	10.85(15)	10-1624
10.82(1)	10-1491	10.85(16)	10-1625
10.82(2)	10-1492	10.85(17)	10-1626
10.82(3)	10-1493	10.85(18)	10-1627
10.82(4)	10-1494	10.85(19)	10-1628
10.82(5)	10-1495	10.85(20)	10-1629
10.82(6)	10-1496	10.85(21)	10-1630
10.82(8)	10-1497	10.86(1)	10-1659
10.82(9)	10-1498	10.86(2)	10-1660
10.82(10)	10-1499	10.86(3)	10-1661
10.82(11)	10-1500	10.86(4)	10-1662
10.82(12)	10-1501	10.86(5)	10-1663
10.82(13)	10-1502	10.86(6)	10-1664
10.82(14)	10-1503	10.86(7)	10-1665
10.82(15)	10-1504	10.86(8)	10-1666
10.82(16)	10-1505	10.86(9)	10-1667
10.82(17)	10-1506	10.86(10)	10-1668
10.82(18)	10-1507	10.86(11)	10-1669
10.82(19)	10-1508	10.86(12)	10-1670
10.82(20)	10-1509	10.87(1)	10-1694
10.83(1)	10-1537	10.87(2)	10-1695

2015 Code Section	Code Section	2015 Code Section	Code Section
10.87(3)	10-1696	10.92(5)	10-1883
10.87(4)	10-1697	10.92(6)	10-1884
10.87(5)	10-1698	10.92(7)	10-1885
10.87(6)	10-1699	10.92(8)	10-1886
10.87(7)	10-1700	10.92(9)	10-1887
10.87(8)	10-1701	10.92(10)	10-1888
10.87(9)	10-1702	10.92(11)	10-1889
10.87(10)	10-1703	10.93(1)	10-1907
10.87(11)	10-1704	10.93(2)	10-1908
10.87(12)	10-1705	10.93(3)	10-1909
10.87(13)	10-1706	10.93(4)	10-1910
10.88(1)	10-1736	10.93(5)	10-1911
10.88(2)	10-1737	10.93(6)	10-1912
10.88(3)	10-1738	10.93(7)	10-1913
10.88(4)	10-1739	10.93(8)	10-1914
10.88(5)	10-1740	10.93(9)	10-1915
10.88(6)	10-1741	10.93(10)	10-1916
10.88(7)	10-1742	10.93(11)	10-1917
10.88(8)	10-1743	10.93(12)	10-1918
10.88(9)	10-1744	10.93(13)	10-1919
10.88(10)	10-1745	10.94(1)	10-1937
10.88(11)	10-1746	10.94(2)	10-1938
10.89(1)	10-1771	10.94(3)	10-1939
10.89(2)	10-1772	10.94(4)	10-1940
10.89(3)	10-1773	10.94(5)	10-1941
10.89(4)	10-1774	10.94(6)	10-1942
10.89(5)	10-1775	10.94(7)	10-1943
10.89(6)	10-1776	10.94(8)	10-1944
10.89(7)	10-1777	10.94(9)	10-1945
10.89(8)	10-1778	10.94(10)	10-1946
10.89(9)	10-1779	10.95(1)	10-1976
10.90(1)	10-1807	10.95(2)	10-1977
10.90(2)	10-1808	10.95(3)	10-1978
10.90(3)	10-1809	10.95(4)	10-1979
10.90(4)	10-1810	10.95(5)	10-1980
10.90(5)	10-1811	10.95(6)	10-1981
10.90(6)	10-1812	10.95(7)	10-1982
10.90(7)	10-1813	10.95(8)	10-1983
10.90(8)	10-1814	10.96	10-2005
10.90(9)	10-1815	10.97(1)	10-2034
10.91(1)	10-1855	10.97(2)	10-2035
10.91(2)	10-1856	10.97(3)	10-2036
10.91(3)	10-1857	10.97(4)	10-2037
10.91(4)	10-1858	10.97(5)	10-2038
10.91(5)	10-1859	10.97(6)	10-2039
10.91(6)	10-1860	10.97(7)	10-2040
10.92(1)	10-1879	10.98(1)	10-2059
10.92(2)	10-1880	10.98(2)	10-2060
10.92(3)	10-1881	10.98(3)	10-2061
10.92(4)	10-1882	10.98(4)	10-2062

2015 Code Section	Code Section	2015 Code Section	Code Section
10.98(5)	10-2063	12.02(5)	8-23
10.98(6)	10-2064	12.02(6)	8-24
10.98(7)	10-2065	12.02(7)	8-25
10.99(1)	10-2094	12.02(8)	8-24
10.99(2)	10-2095	12.02(9)	8-26
10.99(3)	10-2096	12.02(10)	8-27
10.99(4)	10-2097	12.02(11)	8-28
10.99(5)	10-2098	12.02(12)	8-29
10.99(6)	10-2099	12.02(13)	8-30
10.99(7)	10-2100	12.02(14)	8-31
11.01(1)	10-2119	12.03	5-116
11.01(2)	10-2120	12.04	5-117
11.01(3)	10-2121	12.05(1)	5-44
11.02	10-2122	12.05(2)	5-46
11.03(1)	10-2148	12.05(3)	5-45
11.03(2)	10-2149	12.05(4)	5-47
11.03(3)	10-2150	12.05(5)	5-48
11.03(4)	10-2151	12.05(6)	5-49
11.03(5)	10-2152	12.05(7)	5-50
11.03(6)	10-2153	12.05(8)	5-51
11.03(7)	10-2154	12.05(9)	9-79
11.03(8)	10-2155	12.05(11)	5-52
11.03(9)	10-2156	12.05(12)	5-53
11.04	10-2157	12.07	5-150
11.05(1)	10-2188	12.50	5-118
11.05(2)	10-2189	12.71	5-20
11.05(4)	10-2190	12.80(1)	5-82
11.05(5)	10-2191	12.80(2)	5-82
11.05(6)	10-2192	12.80(3)	5-82
11.05(7)	10-2193	12.80(4)	5-83
11.06	10-2215	12.80(5)	5-84
11.07(1)	10-2244	12.80(6)	5-85
11.07(2)	10-2245	12.80(7)	5-86
11.07(3)	10-2246	13.01	5-1
11.07(4)	10-2247	13.04	5-2
11.07(5)	10-2248	13.05(1)	5-116
11.07(6)	10-2249	13.05(3)	5-116
11.08	10-2267	13.06(4)	5-87
11.09	10-2288	13.08(5)	7-30
11.10	10-2315	13.08(6)	7-30
11.11	10-2339	13.09(4)	7-30
11.12	10-2357	13.10(6)	5-20
11.13(intro. ¶)	10-2378	13.14(1)	7-30
11.13(1)	10-2379	13.14(2)	7-30
11.14	10-2380	13.14(3)	7-30
12.01	5-19	13.14(4)	7-30
12.02(1)	8-19	13.14(8)	7-30
12.02(2)	8-20	13.15	5-21
12.02(3)	8-21	13.16(1)	7-30
12.02(4)	8-22	13.16(2)	7-30

2015 Code Section	Code Section	2015 Code Section	Code Section
13.16(3)	7-30	15.04	15-1
13.16(4)	7-30	18.01	16-180
13.16(5)	7-30	18.02	16-180
13.18(1)	7-88	19.01	2-69
13.18(2)	7-89	19.02	2-70
13.18(3)	7-90	19.03	2-71
13.19(1)	5-3	19.04	2-72
13.19(2)	5-3	19.05	2-73
13.19(3)	7-3	19.06	2-74
14.01	13-1	19.07	2-75
14.02	13-2	19.08	2-76
14.03	13-6	19.09	2-96
14.04	13-7	19.10	2-97
14.05	13-8	19.11	2-98
14.06	13-9	19.12	2-99
14.07	13-10		
14.08	13-12		
14.09	13-14		
14.10	13-35		
14.11	13-15		
14.12	13-34		
14.13	13-36		
14.14	13-37		
14.16	13-38		
14.17	13-3		
14.18	13-4		
14.19	13-13		
14.20	13-5		
15.01(1)	15-21		
15.01(2)	15-22		
15.01(3)	15-23		
15.01(4)	15-24		
15.01(5)	15-25		
15.01(6)	15-26		
15.02(1)	15-56		
—	15-94		
15.02(2)	15-57		
15.02(3)	15-58		
15.02(4)	15-59		
15.02(5)	15-60		
15.02(6)	15-61		
15.02(7)	15-62		
15.02(8)	15-63		
15.02(9)	15-64		
15.02(10)	15-65		
15.02(11)	15-66		
15.02(12)	15-67		
15.03(1)	15-93		
15.03(2)	15-94		
15.03(3)	15-95		

CODE COMPARATIVE TABLE

LEGISLATION

The following table gives the location of ordinances and other legislation within the Code.

Legislation	Date	Section	Code Section
Ord. No. 146	8-11-1958	—	5-117
Ord. of 8-28-1972	8-28-1972	—	11-85—11-90
Ord. of 3-10-1975	3-10-1975	—	5-82—5-86
Ord. of 1-26-1976	1-26-1976	—	12-21
Ord. of 11-8-1976	11-8-1976	—	16-4—16-7
		—	16-36
		—	16-63—16-72
Ord. of 2-28-1977	2-28-1977	—	14-1—14-5
		—	14-7—14-12
		—	14-43—14-63
		—	16-2, 16-3
		—	16-132
Ord. of 3-28-1977	3-28-1977	—	11-109—11-116
Ord. of 6-13-1977	6-13-1977	—	16-166—16-170
		—	16-174—16-179
		—	16-182
Ord. of 9-26-1977	9-26-1977	—	1-1—1-3
		—	1-8, 1-9
Ord. of 10-24-1977	10-24-1977	—	11-109—11-116
Ord. of 6-26-1978	6-26-1978	—	6-19, 6-20
		—	6-49
		—	6-72—6-78
		—	6-104—6-113
		—	6-148
		—	6-218—6-237
		—	11-35
Ord. of 1-22-1979	1-22-1979	—	5-19
		1	16-166
		2	16-167
		3	16-168
		4	16-169
		6	16-176
Ord. of 2-26-1979	2-26-1979	—	5-117
		—	9-19—9-24
Ord. of 3-26-1979	3-26-1979	—	16-35
Ord. of 5-29-1979	5-29-1979	—	6-49
Ord. of 6-25-1979	6-25-1979	—	14-84—14-90
		—	16-166
Ord. of 8-13-1979	8-13-1979	—	11-115
Ord. of 4-28-1980	4-28-1980	—	10-2119—10-2122
		—	10-2148—10-2157
		—	10-2188—10-2193
		—	10-2215
		—	10-2244—10-2249
		—	10-2267
		—	10-2288

Legislation	Date	Section	Code Section
		—	10-2315
		—	10-2339
		—	10-2357
Ord. of 1-26-1981	1-26-1981	—	14-5
Ord. of 3-9-1981	3-9-1981	—	14-43—14-63
Ord. of 4-27-1981	4-27-1981	—	13-2—13-4
		—	13-6
		—	13-8—13-10
		—	13-12—13-15
		—	13-34—13-38
Ord. of 9-28-1981	9-28-1981	—	5-82—5-86
Ord. of 1-11-1982	1-11-1982	—	7-27
Ord. of 1-25-1982	1-25-1982	—	5-19
Ord. of 2-8-1982	2-8-1982	—	14-12
Ord. of 4-27-1982	4-27-1982	—	13-1
Ord. of 5-10-1982	5-10-1982	—	16-181
Ord. of 7-12-1982	7-12-1982	—	16-172
Ord. of 8-9-1982	8-9-1982	—	13-6
Ord. of 11-22-1982	11-22-1982	—	6-104—6-113
Ord. of 2-25-1983	2-25-1983	2	13-34
Ord. of 2-28-1983	2-28-1983	1	14-6
Ord. of 4-25-1983	4-25-1983	—	7-55
Ord. of 7-11-1983	7-11-1983	—	13-34
Ord. of 12-12-1983	12-12-1983	—	16-166
Ord. of 9-24-1984	9-24-1984	1-4	9-19—9-24
Ord. of 2-25-1985	2-25-1985	1	13-14
Ord. of 9-23-1985	9-23-1985	—	13-11
Ord. of 10-14-1985	10-14-1985	—	13-7
Ord. of 10-28-1985	10-28-1985	2	6-72—6-78
Ord. of 12-23-1985	12-23-1985	—	13-34
Ord. of 1-27-1986	1-27-1986	—	6-21
Ord. of 3-24-1986	3-24-1986	1	6-218—6-237
Ord. of 11-24-1986	11-24-1986	—	7-27
Ord. of 5-11-1987	5-11-1987	—	16-38
Ord. of 11-9-1987	11-9-1987	—	6-20
Ord. of 4-25-1988	4-25-1988	—	6-310—6-312
Ord. of 5-9-1988	5-9-1988	—	13-34
Ord. of 7-25-1988	7-25-1988	—	6-307
		—	6-310—6-312
Ord. of 9-12-1988	9-12-1988	—	12-25
Ord. of 11-28-1988	11-28-1988	—	11-61
		—	11-63
Ord. of 1-9-1989	1-9-1989	—	6-308
Ord. of 3-27-1989	3-27-1989	—	16-166
Ord. of 12-11-1989	12-11-1989	—	5-44
		—	7-27
Ord. of 2-12-1990	2-12-1990	—	6-313, 6-314
Ord. of 10-22-1990	10-22-1990	—	10-1694—10-1706
Ord. of 11-26-1990	11-26-1990	—	10-1694—10-1706
Ord. of 4-13-1992	4-13-1992	—	6-305—6-309
Ord. of 5-11-1992	5-11-1992	—	9-52—9-59
Ord. of 10-12-1992	10-12-1992	—	4-37
		—	6-49
		—	10-1694—10-1706

Legislation	Date	Section	Code Section
		—	10-2357
Ord. of 3-22-1993	3-22-1993	—	7-55
Ord. of 4-26-1993	4-26-1993	—	9-52—9-59
Ord. of 8-9-1993	8-9-1993	—	7-54
Ord. of 9-13-1993	9-13-1993	—	5-44
Ord. of 9-27-1993	9-27-1993	—	10-2378—10-2380
Ord. of 5-23-1994	5-23-1994	—	16-166
Ord. of 1-8-1995	1-8-1995	—	10-2122
Ord. of 7-10-1995	7-10-1995	—	11-36
Ord. of 10-23-1995	10-23-1995	—	5-116
Ord. of 11-27-1995	11-27-1995	—	7-27
Ord. of 3-25-1996	3-25-1996	—	14-148—14-157
Ord. of 6-10-1996	6-10-1996	—	6-313, 6-314
		—	16-37
Ord. of 6-24-1996	6-24-1996	—	14-9
Ord. of 8-12-1996	8-12-1996	—	5-82—5-86
Ord. of 11-25-1996	11-25-1996	—	16-172
Ord. of 4-28-1997	4-28-1997	—	5-19, 5-20
		—	5-116
		—	5-118
Ord. of 7-28-1997	7-28-1997	H	6-306
Ord. of 8-25-1997	8-25-1997	Subd. 4	10-1774
Ord. of 10-13-1997	10-13-1997	—	10-614
		—	10-970
		—	10-1001
Ord. of 2-9-1998	2-9-1998	—	16-171
Ord. of 2-23-1998	2-23-1998	—	10-1694—10-1706
Ord. of 5-26-1998	5-26-1998	—	6-104—6-113
Ord. of 6-9-1998	6-9-1998	—	10-1628
Ord. of 6-29-1998	6-29-1998	—	5-1—5-3
		—	5-20, 5-21
		—	5-82—5-87
		—	5-116
		—	6-21
		—	7-1—7-3
		—	7-25
		—	7-27, 7-28
		—	7-30
		—	7-50—7-56
		—	7-90
		—	7-109
		—	10-1619
Ord. of 9-28-1998	9-28-1998	—	7-28
Ord. of 2-22-1999	2-22-1999	—	14-43—14-63
Ord. of 4-25-1999	4-25-1999	—	10-1694—10-1706
Ord. of 6-28-1999	6-28-1999	—	10-39, 10-40
Ord. of 11-8-1999	11-8-1999	—	7-88
		—	10-98
		—	10-170
Ord. of 4-24-2000	4-24-2000	—	6-313
Ord. of 7-10-2000	7-10-2000	—	10-431, 10-432
		—	10-434—10-440
		—	10-931—10-940
Ord. of 9-5-2000	9-5-2000	—	10-1210

Legislation	Date	Section	Code Section
Ord. of 7-9-2001	7-9-2001	—	10-1003, 10-1004
		—	10-1470
Ord. of 10-22-2001	10-22-2001	—	6-230
Ord. of 2-25-2002	2-25-2002	—	16-170
Ord. of 5-28-2002	5-28-2002	—	13-10
		—	13-34
Ord. of 7-8-2002	7-8-2002	—	4-5
Ord. of 4-28-2003	4-28-2003	—	5-19
Ord. of 6-23-2003	6-23-2003	—	10-271
		—	10-276
		—	16-170
Ord. of 8-25-2003	8-25-2003	—	13-6
Ord. of 9-8-2003	9-8-2003	—	6-332—6-347
Ord. of 10-13-2003	10-13-2003	—	5-117
		—	6-49
		—	7-27
		—	16-8
Ord. of 10-27-2003	10-27-2003	—	5-21
		—	7-30
		—	7-55
		—	11-35
Ord. of 1-26-2004	1-26-2004	—	6-142—6-154
Ord. of 2-9-2004	2-9-2004	—	10-97
		—	10-136
		—	10-167
		—	10-169
		—	10-203
		—	10-271
		—	10-970
		—	10-1497
		—	10-1619
		—	10-1630
		—	10-1944
Ord. of 7-12-2004	7-12-2004	—	10-1703
Ord. of 2-14-2005	2-14-2005	—	7-90
Ord. of 10-10-2005	10-10-2005	—	6-149
		—	10-1811
Ord. of 12-12-2005	12-12-2005	—	11-35
Ord. of 3-27-2006	3-27-2006	—	10-2
		—	10-500
		—	10-542
		—	10-581
		—	10-614
		—	10-1494
Ord. of 4-10-2006	4-10-2006	—	7-25
		—	7-109
Ord. of 5-8-2006	5-8-2006	—	10-73, 10-74
		—	10-690
		—	10-709—10-716
		—	10-746—10-756
		—	10-781—10-791
		—	10-821—10-829
		—	10-852—10-855
Ord. of 11-13-2006	11-13-2006	—	7-25

Legislation	Date	Section	Code Section
Ord. of 3-26-2007	3-26-2007	—	11-1—11-14
Ord. of 8-13-2007	8-13-2007	—	4-1, 4-2
		—	4-6
		—	4-8, 4-9
		—	4-37—4-43
		—	4-75—4-88
Ord. of 9-10-2007	9-10-2007	—	10-1704
Ord. of 11-13-2007	11-13-2007	—	12-23
		—	16-173
Ord. of 11-26-2007	11-26-2007	—	10-2
		—	10-1494
Ord. of 1-14-2008	1-14-2008	—	10-133
		—	10-972, 10-973
Ord. of 3-24-2008	3-24-2008	—	5-44—5-53
		—	9-79
Ord. of 4-14-2008	4-14-2008	—	10-1001, 10-1002
		—	13-2
		—	13-5—13-10
		—	13-12
		—	13-14
		—	13-34—13-36
		—	13-38
Ord. of 6-9-2008	6-9-2008	—	7-29
		—	7-57
Ord. of 10-13-2008	10-13-2008	—	10-1509
Ord. of 2-23-2009	2-23-2009	—	5-20
		—	7-55
		—	11-1—11-14
		—	11-32
		—	11-35, 11-36
		—	14-2
		—	14-148—14-157
Ord. of 3-23-2009	3-23-2009	—	7-29
		—	7-57
		—	10-614
Ord. of 4-13-2009	4-13-2009	—	8-19—8-31
Ord. of 7-13-2009	7-13-2009	—	16-166
Ord. of 10-12-2009	10-12-2009	—	10-1623
		—	14-3
		—	14-5
		—	16-175
Ord. of 6-14-2010	6-14-2010	—	10-1628
Ord. of 3-28-2011	3-28-2011	—	12-22
Ord. of 5-23-2011	5-23-2011	—	10-1509
Ord. of 6-27-2011	6-27-2011	—	10-1509
Ord. of 7-11-2011	7-11-2011	—	10-1703
Ord. of 9-12-2011	9-12-2011	—	16-103—16-109
Ord. of 9-26-2011	9-26-2011	—	16-172
Ord. of 5-14-2012	5-14-2012	—	10-1509
Ord. of 8-27-2012	8-27-2012	—	6-218—6-237
		—	14-5
Ord. of 9-10-2012	9-10-2012	—	10-1738
Ord. of 9-24-2012	9-24-2012	—	10-750
		—	10-785

Legislation	Date	Section	Code Section
Ord. of 10-22-2012	10-22-2012	—	16-103—16-109
Ord. of 1-14-2013	1-14-2013	—	10-1694—10-1706
Ord. of 2-11-2013	2-11-2013	—	16-170
Ord. of 8-12-2013	8-12-2013	—	6-20—6-22
		—	6-72—6-78
		—	6-104—6-113
		—	6-147—6-150
		—	6-222—6-225
		—	6-230
		—	6-236
		—	6-306
		—	6-332
		—	6-335, 6-336
		—	6-338
		—	6-341
		—	7-29, 7-30
		—	7-51
		—	7-53
		—	7-55
		—	9-55
		—	10-1509
Ord. of 12-9-2013	12-9-2013	—	7-88
		—	10-164
		—	10-167—10-169
Ord. of 1-13-2014	1-13-2014	—	6-22
		—	6-105
Ord. of 8-25-2014	8-25-2014	—	7-1, 7-2
		—	7-25
		—	7-27—7-30
		—	7-50—7-55
		—	7-57
		—	7-109, 7-110
Ord. of 9-8-2014	9-8-2014	—	4-1, 4-2
		—	4-6
		—	4-8, 4-9
		—	4-37—4-43
		—	4-75—4-88
Ord. of 9-22-2014	9-22-2014	—	10-1703
Ord. No. 15-0323-3	3-23-2015	—	10-1509
Ord. No. 15-0323-4	3-23-2015	12.01	5-19
		12.02(2)	8-20
		12.02(5)	8-23
		12.02(8)	8-24
		12.03	5-116
		12.05(1)	5-44
		12.05(2)	5-46
		12.05(3)	5-45
		12.05(4)	5-47
		12.05(5)	5-48
		12.05(6)	5-49
		12.05(7)	5-50
		12.05(8)(1)	5-51
		12.05(8)(2)	9-79
		12.05(10)	5-52

Legislation	Date	Section	Code Section
		12.05(11)	5-53
		12.07	5-150
		12.80(4)	5-83
		12.80(5)	5-84
		12.80(6)	5-85
		12.80(7)	5-86
Ord. No. 15-0323-4	3-23-2015	12.80(1)	5-82
		12.80(2)	5-82
		12.80(3)	5-82
Ord. No. 15-0824-11	8-24-2015	9.61(1)	4-1
		9.61(2)	4-7
		9.61(3)	4-3
		9.61(4)	4-3
		9.61(5)	4-4
Ord. No. 15-1214-16	12-14-2015	19.01	2-69
		19.02	2-70
		19.03	2-71
		19.04	2-72
		19.05	2-73
		19.06	2-74
		19.07	2-75
		19.08	2-76
		19.09	2-96
		19.10	2-97
		19.11	2-98
		19.12	2-99
Ord. No. 16-0125-1	1-25-2016	5.36(1)	6-142
		5.36(2)	6-143
		5.36(4)	6-144
		5.36(5)	6-145
		5.36(6)	6-146
		5.36(7)	6-147
		5.36(8)	6-148
		5.36(9)	6-149
		5.36(10)	6-150
		5.36(11)	6-151
		5.36(12)	6-152
		5.36(13)	6-153
		5.36(14)	6-154
Ord. No. 16-0208-2	2-8-2016	—	10-1509
Ord. No. 16-0222-3	2-22-2016	5.04	6-22
		5.38(1)	6-218
		5.38(2)	6-219
		5.38(3)	6-220
		5.38(5)	6-221
		5.38(6)	6-222
		5.38(7)	6-223
		5.38(8)	6-224
		5.38(9)	6-225
		5.38(10)	6-226
		5.38(11)	6-227
		5.38(12)	6-228
		5.38(13)	6-229
		5.38(14)	6-230

Legislation	Date	Section	Code Section
		5.38(15)	6-231
		5.38(16)	6-232
		5.38(17)	6-233
		5.38(18)	6-234
		5.38(19)	6-235
		5.38(21)	6-237
Ord. No. 16-0222-3	2-22-2016	5.38(20)	6-236
Ord. No. 16-0926-13	9-26-2016	—	10-1509
Ord. No. 16-1212-17	12-12-2016	4.02	3-1
		4.03	3-2
		4.04(1)	3-48
		4.04(2)	3-49
		4.04(3)	3-50
		4.04(4)	3-51
		4.05(5)	3-52
		4.04(6)	3-53
		4.04(7)	3-54
		4.04(8)	3-56
		4.04(11)	3-59
		4.05(1)	3-77
		4.05(2)	3-78
		4.05(3)	3-79
		4.06(intro. ¶)	3-104
		4.06(1)	3-104
		4.06(1)	3-105
		4.06(1)(A)	3-106
		4.06(1)(B)(1)	3-106
		4.06(1)(B)(2)	3-106
		4.06(1)(B)(3)	3-106
		4.06(1)(B)(4)	3-106
		4.06(1)(B)(5)	3-106
		4.06(1)(B)(6)	3-107
		4.08(1)	3-128
		4.08(2)	3-129
		4.09	3-157
		4.10	3-158
		4.11	3-159
		4.12	3-160
		4.13	3-162
		4.14	3-163
		4.15	3-164
Ord. No. 16-1212-17	12-12-2016	4.05(4)	3-80
		4.04(9)	3-57
		4.04(10)	3-58
Ord. No. 17-0410-2	4-10-2017	12.05(1)	5-44
		12.05(2)	5-46
		12.05(3)	5-45
		12.05(4)	5-47
		12.05(5)	5-48
		12.05(6)	5-49
		12.05(7)	5-50
		12.05(8)	5-51
		12.05(9)	9-79
		12.05(11)	5-52

Legislation	Date	Section	Code Section
		12.05(12)	5-53
Ord. No. 17-0814-5	8-14-2017	5.04	6-22
		5.37(1)	6-179
		5.37(2)	6-180
		5.37(4)	6-181
		5.37(5)	6-182
		5.37(6)	6-183
		5.37(7)	6-184
		5.37(8)	6-185
		5.37(9)	6-186
		5.37(10)	6-187
		5.37(11)	6-188
		5.37(12)	6-189
		5.37(13)	6-190
		5.37(14)	6-191
		5.37(15)	6-192
		5.37(16)	6-193
		5.37(17)	6-194
		5.37(18)	6-195
		5.37(19)	6-196
Ord. No. 18-0212-1	2-12-2018	6.03	14-2
		6.04	14-152
		6.05(1)	14-9
		6.05(2)	14-8
		6.05(5)	14-8
		6.06(1)	14-43
		6.06(2)	14-44
		6.06(3)	14-45
		6.06(4)	14-46
		6.06(5)	14-47
		6.06(6)	14-48
		6.06(7)	14-49
		6.06(8)	14-50
		6.06(9)	14-51
		6.06(10)	14-52
		6.06(11)	14-53
		6.06(12)	14-54
		6.06(13)	14-55
		6.06(14)	14-56
		6.06(15)	14-57
		6.06(16)	14-58
		6.06(17)	14-59
		6.06(18)	14-60
		6.06(19)	14-61
		6.06(20)	14-62
		6.06(21)	14-63
		6.07	14-12
		6.08	14-7
		6.13	14-5
		6.15	14-6
		6.16(1)	14-84
		6.16(2)	14-85
		6.16(3)	14-86
		6.16(4)	14-87

Legislation	Date	Section	Code Section
		6.16(5)	14-88
		6.16(6)	14-89
		6.16(7)	14-90
Ord. No. 18-0226-2	2-26-2018	—	10-1509
Ord. No. 18-0514-6	5-14-2018	5.04	6-22
		5.39(1)	6-270
		5.39(2)	6-271
		5.39(3)	6-272
		5.39(4)	6-273
		5.39(5)	6-274
		5.39(6)	6-275
		5.39(7)	6-276
		5.39(8)	6-277
		5.39(9)	6-278
Ord. No. 18-1113-11	11-13-2018	—	7-25
Ord. No. 18-1113-12	11-13-2018	4.07	3-161
Ord. No. 18-1210-13	12-10-2018	2.01	2-1
		2.02	2-2
		2.03	2-3
		2.04	2-4
		2.05	2-5
		2.06	2-6
		2.07	2-7
		2.08	2-8
		2.09	2-35
		2.11	2-36
		2.12	2-37
		2.13	2-38
		2.14	2-39
Ord. No. 19-0513-2	5-13-2019	5.35(1)	6-104
		5.35(2)	6-105
		5.35(3)	6-106
		5.35(5)	6-107
		5.35(6)	6-108
		5.35(7)	6-109
		5.35(8)	6-110
		5.35(9)	6-111
		5.35(10)	6-112
		5.35(11)	6-113
Ord. No. 20-1109-6	11-9-2020	4.04(2)	3-49
Ord. No. 20-1109-7	11-9-2020	4.03	3-2
		4.04(5)	3-52
		4.05(2)	3-78
Ord. No. 20-1109-8	11-9-2020	8.05(1)	16-170
		8.06(3)	16-171
Ord. No. O-2021-0726-3	7-26-2021	—	6-112
Ord. No. O-2021-0726-4	7-26-2021	15.01(1)	15-21
		15.01(2)	15-22
		15.01(3)	15-23
		15.01(4)	15-24
		15.01(5)	15-25
		15.01(6)	15-26
		15.02(1)	15-56
		—	15-94

Legislation	Date	Section	Code Section
		15.02(2)	15-57
		15.02(3)	15-58
		15.02(4)	15-59
		15.02(5)	15-60
		15.02(6)	15-61
		15.02(7)	15-62
		15.02(8)	15-63
		15.02(9)	15-64
		15.02(10)	15-65
		15.02(11)	15-66
		15.02(12)	15-67
		15.03(1)	15-93
		15.03(2)	15-94
		15.03(3)	15-95
		15.04	15-1
Ord. No. O-2021-0809-6	8-9-2021	4.04(8)	3-55
		4.04(9)	3-55
Ord. No. O-2022-0509-2	5-9-2022	10.02(114)	10-2
		10.02(115)	10-2
		10.02(116)	10-2
		10.81(1)	10-1462
		10.81(10)	10-1471
Ord. No. O-2022-0912-10	9-12-2022	10.71(1)	10-1209
		10.71(2)	10-1210
		10.71(3)	10-1211
		10.71(4)	10-1212
		10.72	10-1213
		10.73(1)	10-1245
		10.73(2)	10-1246
		10.73(3)	10-1247
		10.73(4)	10-1248
		10.74(1)	10-1270
		10.74(2)	10-1271
		10.74(3)	10-1272
		10.74(4)	10-1273
		10.74(5)	10-1274
		10.74(6)	10-1275
		10.74(7)	10-1276
		10.75(1)	10-1296
		10.75(2)	10-1297
		10.75(3)	10-1298
		10.76(1)	10-1325
		10.76(2)	10-1326
		10.78(1)	10-1377
		10.78(2)	10-1378
		10.79(1)	10-1410
		10.79(2)	10-1411
		10.79(3)	10-1412
		10.80(1)	10-1433
		10.80(2)	10-1434
Ord. No. R-2022-0912-9	9-12-2022	9.77(10)	11-2
		9.77(10)(A)	11-3
		9.77(10)(B)	11-4
		9.77(11)	11-12

Legislation	Date	Section	Code Section
		9.77(12)	11-13
		9.77(13)	11-14
Ord. No. O-2022-0926-11	9-26-2022	3.01	17-1
		3.03(2)	17-179
		3.03(3)	17-227
		3.03(4)	17-220
		—	17-226, 17-227
		3.03(5)	17-252
		3.03(6)	17-253
		3.03(7)	17-190
		3.03(9)	17-229
		3.03(10)	17-3
		3.03(11)	17-4
		3.03(12)	17-188
		3.03(13)	17-5
		3.03(14)	17-180
		3.03(15)	17-181
		3.03(16)	17-182
		3.03(17)	17-183
		3.03(18)	17-184
		3.03(19)	17-189
		3.03(20)	17-185
		3.03(21)	17-186
		3.03(22)	17-187
		3.04	17-29
		3.06	17-31
		3.07	17-32
		3.08	17-33
		3.09	17-34
		3.10	17-71
		3.11(intro. ¶)	17-57
		3.11(1)	17-58
		—	17-67
		3.11(2)	17-59
		3.11(3)	17-60
		3.11(4)	17-61
		3.11(5)	17-62
		3.11(6)	17-63
		3.11(7)	17-64
		3.11(8)	17-65
		3.11(9)	17-66
		3.11(11)	17-68
		3.11(12)	17-69
		3.12	17-101
		3.13(1)	17-131
		3.13(2)	17-132
		3.13(3)	17-133
		3.13(4)	17-134
		3.14	17-135
		3.15(1)	17-154
		3.15(2)	17-155
		3.16(1)	17-219
		3.16(2)	17-221
		3.16(3)	17-221

Legislation	Date	Section	Code Section
		3.16(4)	17-222
		3.16(5)	17-222
		3.16(6)	17-222
		3.16(7)	17-222
		3.16(8)	17-222
		3.16(9)	17-222
		3.16(10)	17-223
		3.16(11)	17-224
		3.16(12)	17-225
		3.17	17-2
Ord. No. O-2022-0926-11	9-26-2022	3.11(13)	17-70
Ord. No. O-2022-0926-11	9-26-2022	3.03(8)	17-228
Ord. No. O-2022-1024-13	10-24-2022	6.04(1)	14-148
		6.04(2)	14-149
		6.04(3)	14-150
		6.04(4)	14-151
		6.04(5)	14-152
		6.04(6)	14-153
		6.04(7)	14-154
		6.04(8)	14-155
		6.04(9)	14-156
		6.09(10)	14-157
		6.18(1)	14-183
		6.18(2)	14-184
		6.18(3)	14-185
		6.18(4)	14-186
		6.18(5)	14-187
		6.18(6)	14-188
		6.18(7)	14-189
		6.18(8)	14-190
Ord. No. O-2022-1114-16	11-14-2022	10.65(1)	10-1054
		—	10-1057
		10.65(2)	10-1055
		—	10-1058
		10.65(3)	10-1056
		—	10-1059
		10.65(4)	10-1060
		10.65(5)	10-1061
		10.65(6)	10-1062
		10.65(7)	10-1063
		10.66(8)	10-1064
		10.67(1)	10-1115
		10.67(2)	10-1116
		10.67(3)	10-1117
		10.67(4)	10-1118
		10.67(5)	10-1119
		10.67(6)	10-1120
		10.67(7)	10-1121
		10.68	10-1151
Ord. No. O-2022-1128-17	11-28-2022	4.03	3-2
		4.04(8)	3-55
		4.04(9)	3-55
		4.04(10)	3-56
		4.04(11)	3-57

Legislation	Date	Section	Code Section
		4.04(12)	3-58
Ord. No. O-2022-1128-18	11-28-2022	5.51(1)	6-332
		5.51(7)	6-337
		5.51(8)	6-338
		5.51(12)	6-342
		5.51(14)	6-344
Ord. No. O-2023-0626-1	6-26-2023	6.01	14-1
		—	16-132
		6.19(1)	16-133
		6.19(2)	16-134
		6.19(3)	16-135
		6.19(4)	16-136
		6.19(5)	16-137
		6.19(6)	16-138
		6.19(7)	16-139
		6.19(8)	16-140
		6.19(9)	16-141
Ord. No. O-2023-0626-2	6-26-2023	6.20(1)	14-109
		6.20(2)	14-110
		6.20(3)	14-111
		6.20(4)	14-112
		6.20(5)	14-113
		6.20(6)	14-114
		6.20(7)	14-115
		6.20(8)	14-116
		6.20(9)	14-117
Ord. No. O-2022-0912-10	9-12-2022	10.77(1)	10-1351
		10.77(2)	10-1352
		10.77(3)	10-1353, 10-1354
Ord. No. O-2023-1211-6	12-11-2023	10.71(1)	10-1209
		10.71(2)	10-1210
		10.71(3)	10-1211
		10.71(4)	10-1212
		10.72	10-1213
		10.73(1)	10-1245
		10.73(2)	10-1246
		10.73(3)	10-1247
		10.73(4)	10-1248
		10.74(1)	10-1270
		10.74(2)	10-1271
		10.74(3)	10-1272
		10.74(4)	10-1273
		10.74(5)	10-1274
		10.74(6)	10-1275
		10.74(7)	10-1276
		10.75(1)	10-1296
		10.75(2)	10-1297
		10.75(3)	10-1298
		10.76(1)	10-1325
		10.76(2)	10-1326
		10.77(1)	10-1351
		10.77(2)	10-1352
		10.77(3)	10-1353, 10-1354
		10.78(1)	10-1377

Legislation	Date	Section	Code Section
		10.78(2)	10-1378
		10.79(1)	10-1410
		10.79(2)	10-1411
		10.79(3)	10-1412
		10.80(1)	10-1433
		10.80(2)	10-1434
Ord. No. O-2024-0122-1	1-22-2024	4.03	3-2
		4.04	3-49
		4.10	3-158
Ord. No. O-2024-0226-2	2-26-2024	—	10-1699
Ord. No. O-2024-0528-3	5-28-2024	—	2-8
Ord. No. O-2024-0826-4	8-26-2024	2-99	2-129
		2-100	2-130
		2-101	2-157
		2-102	2-158

STATE LAW REFERENCE TABLE

The following table shows the location within the Charter and Code, either in the text or notes following the text, of references to Minnesota Statutes Annotated (M.S.A.).

M.S.A. Section	Code Section
12.25	2-6
ch. 13	6-22
—	16-141
13.01 et seq.	6-194
13.44	7-109
13D.02	Char. § 2.12
13D.021	Char. § 2.12
18.75—18.91	11-111
18.76—18.91	14-184
18.77	11-113
ch. 28A	6-270
60A.07	6-184
60A.196	6-184
ch. 65B	6-184
65B.44	6-184
65B.47	6-184
65B.47, subd. 1	6-184
65B.49	6-184
84.415	10-1273
84C.01	10-1501
—	14-184
93.44—93.51	10-1056
—	10-1059
ch. 103F	10-1054
—	10-1209
103F.227	10-1056
103F.48	10-1056
ch. 103G	10-1063
103G.005, subd. 15	8-20
—	10-1056
103G.005, subd. 15a	10-1056
103G.005, subd. 19	10-1501
103G.201	8-20
103G.245	10-1056
—	10-1273
—	10-1351
ch. 103I	17-30
115.01	10-1272
115.07	17-1
115.07, subd. 8	17-1
116.06, subd. 11	11-2
116D.01 et seq.	10-1501
138.17	2-35
144.1222, subd. 4	10-2
144.391	6-104
144.414	6-227
144.414, subd. 1	6-192
ch. 144D	7-53
151.72, subd. 5b	3-159
151.72, subd. 7	3-159
ch. 152	6-189
—	6-226
152.22—152.37	6-112
ch. 157	6-270
—	7-53
157.15	15-94
157.20, subd. 2a	3-2
160.263	16-35
ch. 168	15-1
—	16-174
ch. 169	16-107, 16-108
169.011	14-1
—	16-1
169.011, subd. 40(a)	16-104
169.011, subd. 65	6-179
169.045	16-107
169.045(7)	16-107
169.09	6-189
169.13	6-189
169.345	16-179
169.70	16-107
169.797	6-226
169.999	12-1
169A.03, subd. 21	6-189
169A.20	6-226
169A.20, subd. 1	6-189
—	6-226
169A.20, subd. 2	6-189
169A.24	6-226
169A.25	6-226
169A.52	6-226
ch. 171	16-178
171.02	6-226
171.14	6-226
171.17	6-226
171.18	6-226
211B.045	10-1697
216B.02, subd. 4	14-44

M.S.A. Section	Code Section
—	17-1
216B.02, subd. 6	14-44
216B.097	17-252
216B.0975	17-252
ch. 238	14-44
253A.02	9-21
ch. 270	15-65
ch. 270C	15-22
—	15-57
270C.171	15-22
274.01	2-36
274.01, subd. 1	2-36
ch. 275	Char. § 6.06
—	Char. § 6.16
ch. 278	3-159
ch. 289A	15-22
—	15-57
—	15-64
ch. 297A	15-22
—	15-57
—	15-59
—	15-61
—	15-64
—	15-65
—	15-94
297F.01, subd. 3	6-105
299C.67	6-189
ch. 299F	9-20
—	9-22
300.03	14-44
307.08	10-1056
325E.028	17-252
325J.04, subd. 2	6-339
ch. 326B	5-19
340.301	3-53
ch. 340A	3-1
—	3-48
—	3-57
—	3-77
—	3-129
—	15-94
340A.22	3-55
340A.28	3-57
340A.28, subd. 1	3-57
340A.301	3-49
—	3-53
—	3-57, 3-58
340A.301, subd. 1	3-49
340A.301, subd. 6	3-57
340A.301, subd. 6(a)	3-55
340A.301, subd. 6(b)	3-159
340A.301, subd. 9	3-57
340A.401	3-48
340A.404	3-49
340A.404, subd. 12	3-49
340A.405	3-50
340A.408	3-50
340A.408, subd. 2(a)	3-55
340A.408, subd. 3(c)	3-50
340A.409	3-55
—	3-157
340A.410, subd. 4	3-160
340A.410, subd. 7	3-2
340A.412, subd. 2	3-49
340A.412, subd. 10	3-160
340A.503	3-160
340A.503, subd. 1(a)(1)	12-23
340A.504	3-51
340A.504, subd. 3	3-55
340A.801	3-157
ch. 342	3-159
344.02, subd. 1(a)	10-1213
344.02, subd. 1(b)	10-1213
344.02, subd. 1(c)	10-1213
344.02, subd. 1(d)	10-1213
347.542	4-88
364.03	6-189
364.06	6-22
364.09	6-189
ch. 429	2-8
—	10-2120
—	11-12, 11-13
—	14-2
—	14-8
—	17-225
429.101	11-115
ch. 444	17-224
451.15	11-115
461.12	6-113
ch. 462	10-1054
—	10-1209
462.357, subd. 1	10-1055
462.357, subd. 1e	10-1059
—	10-1578
462.357, subd. 6(2)	10-1056
—	10-1213
—	10-1352
462.357, subd. 7	7-2
—	7-25
—	7-110
462.358, subd. 1a	10-2378
462C.16	2-129
469.190	15-21
—	15-26
469.190, subd. 3	15-25
ch. 469A	15-22
ch. 471	10-2120

M.S.A. Section	Code Section
471.193	2-35
471.193, subd. 6	10-1508
471.345	2-8
471.45	2-8
471.87	Char. § 2.20
471.88	Char. § 2.20
ch. 493	12-1
504B.215, subd. 3	17-252
ch. 505	10-2120
606.01	2-98
609.17	6-226
609.175	6-226
609.185	6-226
609.185—609.195	6-189
609.19	6-226
609.195	6-226
609.20	6-226
609.20—609.205	6-189
609.205	6-226
609.2111—609.2114	6-189
609.2112	6-226
609.2113	6-226
609.221	6-226
609.221—609.223	6-189
609.222	6-226
609.223	6-226
609.2231	6-226
609.228	6-226
609.235	6-226
609.24	6-226
609.245	6-226
609.25	6-226
609.255	6-226
609.265	6-226
609.321	3-160
609.33	7-55
609.342	6-226
609.342—609.3451	6-189
609.343	6-226
609.344	6-226
609.345	6-226
609.352	6-226
609.415	2-98
609.487	6-226
609.545	6-226
609.582, subd. 1	6-226
609.685	6-113
609.705	7-55
609.715	7-55
609.72	3-160
—	7-55
609.75	3-160
617.23, subd. 2	6-189
617.23, subd. 3	6-189
624.20	9-19
624.22	9-79
ch. 645	1-3
645.08	1-3
645.16	1-3
645.17	1-3
645.18	1-3
645.19	1-3
645.20	1-3
645.21	1-3

CHARTER INDEX

Section

A

ADMINISTRATION
- Boards and commissions 4.04
- Departments of administration 4.01
- Finance
  - Administration of budget 6.11
- Restrictions 4.03
- Subordinate officers 4.02

ASSESSMENTS
- Assessment authority 8.01
- Assessments for services 8.02
- Fees and civil penalties 8.04
- Power to purchase property or assignment of liens 8.03

B

BOARDS, COMMISSIONS AND COMMITTEES
- Administration
  - Boards and commissions 4.04
- Planning
  - City planning commission 9.01

BONDS, SURETY OR PERFORMANCE
- Finance
  - Provisions to be made to pay bonds 6.19
- Form of government
  - Official bonds 2.19

C

CHARTER
- Charter a public act 1.03
- City attorney 10.05
- City clerk to administer oaths 10.11
- City records 10.06
- Form of government 2.01
  - Action requiring an ordinance 2.13
  - Authentication and recording; codification; printing 2.17
  - City clerk 2.09
  - Codes of technical regulations 2.16
  - Compensation; expenses 2.04
  - Council 2.02
  - Emergency ordinances 2.15
  - General powers and duties 2.05
  - Independent audit 2.11
  - Investigation of city affairs 2.10
  - Judge of qualifications 2.08
  - Official bonds 2.19
  - Ordinance to make Charter effective 2.21
  - Ordinances in general 2.14

	Section
CHARTER (Cont'd.)	
Ordinances left in force	2.18
Personal financial interest	2.20
Procedure	2.12
Prohibitions	2.06
Transfer of books	2.03
Vacancies, forfeiture of office, filling of vacancies	2.07
Franchises	10.02
General laws	10.14
Municipal utilities	10.03
Name and boundary	1.01
Oath of office	10.10
Platted property	10.07
Power to acquire property	10.01
Powers of the city	1.02
Regular paydays for city employees	10.12
Sale or lease of real property	10.08
Saving clause	10.09
Succession	10.13
Vacation of easements on private property	10.04.b
Vacations of public ways, streets and alleys	10.04.a
Wards	1.04
CITY ATTORNEY	
City attorney	10.05
CITY CLERK	
City clerk to administer oaths	10.11
Form of government	2.09
CITY MANAGER	
Acting city manager	3.03
Appointment; qualifications; compensation of city manager	3.01
Compensation and recognition	3.08
Competitive contracts	3.06
Document execution	3.07
Powers and duties of the city manager	3.04
Purchasing	3.05
Removal	3.02
CIVIL EMERGENCIES	
Form of government	
Emergency ordinances	2.15
CONTRACTS AND AGREEMENTS	
City manager	
Competitive contracts	3.06
Finance	
Contracts	6.12

Section

E

EASEMENTS
Vacation of easements on private property..... 10.04.b

ELECTIONS
Candidates in general election..... 7.05
Canvass; general election..... 7.07
Elections regulations 7.09
General elections..... 7.01
Initiative, referendum and recall
Recall elections 5.03
Primary election 7.03
Special elections..... 7.02
Tie vote..... 7.08
Vacancy in nomination 7.04
Write-in candidates 7.06

EMERGENCIES
Form of government
Emergency ordinances 2.15

F

FEES, CHARGES AND RATES
Assessments
Fees and civil penalties..... 8.04

FINANCE
Accounting practices 6.21
Accounts and reports..... 6.17
Administration of budget 6.11
Amendments after adoption..... 6.09
Budget message..... 6.03
Budget 6.04
Capital program..... 6.05
Collusion by bidder 6.14
Collusion with bidder 6.13
Contracts..... 6.12
Council action on budget..... 6.06
Council action on capital program 6.07
Debt not to be increased or credit loaned 6.18
Fiscal year 6.01
Generally..... 6.00
Lapse of appropriations 6.10
Levy and collection of taxes..... 6.16
Power to borrow money or incur debt 6.15
Property subject to taxation 6.20
Provisions to be made to pay bonds..... 6.19
Public records 6.08
Submission of budget and budget message 6.02

	Section
FINES, FORFEITURES AND OTHER PENALTIES	
Assessments	
Fees and civil penalties	8.04
Form of government	
Vacancies, forfeiture of office, filling of vacancies	2.07
FRANCHISES	
Franchises	10.02
I	
INITIATIVE, REFERENDUM AND RECALL	
Cause of recall	5.02
Direct legislation	5.05
Forms	5.07
Recall elections	5.03
Recall; method prescribed	5.01
Recall; time limit	5.04
Referendum	5.06
INVESTIGATIONS	
Form of government	
Investigation of city affairs	2.10
O	
OATH, AFFIRMATION, SWEAR OR SWORN	
City clerk to administer oaths	10.11
Oath of office	10.10
OFFICERS AND EMPLOYEES	
Administration	
Subordinate officers	4.02
Regular paydays for city employees	10.12
P	
PEDDLERS, CANVASSERS AND SOLICITORS	
Elections	
Canvass; general election	7.07
PLANNING	
City planning commission	9.01
Comprehensive plan	9.02
Implementation of the comprehensive plan	9.03
PLANNING AND DEVELOPMENT	
Planning	9.01 et seq.
See: PLANNING	
PROPERTY	
Assessments	
Power to purchase property or assignment of liens	8.03

	Section
PROPERTY (Cont'd.)	
Finance	
Property subject to taxation	6.20
R	
REAL ESTATE, REAL PROPERTY	
Sale or lease of real property	10.08
RECORDS AND REPORTS	
City records	10.06
Finance	
Accounts and reports	6.17
Public records	6.08
Form of government	
Authentication and recording; codification; printing	2.17
S	
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
Vacations of public ways, streets and alleys	10.04.a
U	
UTILITIES	
Municipal utilities	10.03

CODE INDEX

Section

A

ABANDONMENT
- Streets, sidewalks and other public places
  - Pedestrian corridor management
    - Abandoned personal property 14-116
  - Right-of-way management
    - Abandoned and unusable equipment 14-61
- Utilities
  - Service connections and equipment
    - Abandoned service 17-183

ABATEMENT
- Nuisances ..... 11-11 et seq.
  - See: NUISANCES

ACCESS
- Land use and development
  - Manufactured homes
    - Manufactured home parks
      - Environmental, open spaces, and access requirements . 10-370
  - Standard of general applicability
    - Off-street loading
      - Access of off-street loading areas 10-1663
- Utilities
  - Water
    - Prohibited access and use 17-32

ACCIDENTS
- Utilities
  - Wastewater
    - Accidental and slug discharges 17-67

ADMINISTRATION
- Administrative procedure
  - Administrative appeals
    - Administrative strike review 2-97
    - Appeal from administrative hearings 2-98
    - Assessment of certain unpaid fines 2-99
    - Certain violations appealable by review or hearing 2-96
  - Administrative civil fines 2-74
  - Alternative method of enforcement 2-70
  - Code violations 2-73
  - Definitions 2-72
  - Imposition of civil fines 2-76
  - Intent 2-71
  - Late payment and nonpayment of civil fines 2-75
  - Purpose 2-69
- Affordable housing trust fund ..... 2-129 et seq.
  - See: AFFORDABLE HOUSING TRUST FUND
- Boards, commissions, and committees ..... 2-35 et seq.
  - See: BOARDS, COMMISSIONS, AND COMMITTEES

	Section
ADMINISTRATION (Cont'd.)	
City functions	2-3
City manager	2-2
Compensation of mayor and council members	2-4
Council meetings	2-5
Dwelling unit rental	7-109 et seq.
See: DWELLING UNIT RENTAL	
Emergency management	2-6
Land use and development	10-1120(3) et seq.
See: LAND USE AND DEVELOPMENT	
Nuisances	
Administrative penalties	11-10
Officers and administrative functions	2-1
Purchasing procedure	2-8
Taxation	
Sales and use tax	
Deposit of revenues; costs of administration; termination of tax	15-66
Unclaimed property	2-7
ADVERTISING	
Businesses and licensing	
Specific business operations	
Transportation network companies	
Commercial advertisements prohibited	6-188
Land use and development	
Standard of general applicability	
Signs	
Off-premises signs (outdoor advertising)	10-1704
Taxation	
Lodging tax	
Advertising no tax	15-24
AFFORDABLE HOUSING TRUST FUND	
Authority and purpose	2-129
Definitions	2-130
Housing trust fund account	
Source of trust funds	2-157
Trust fund administration	2-158
ALARM SYSTEMS	
Fire prevention and other public safety control	9-52 et seq.
See: FIRE PREVENTION AND OTHER PUBLIC SAFETY CONTROL	
ALCOHOLIC BEVERAGES	
Definitions	3-2
Licenses and permits	
Intoxicating liquor licenses	
Bottle club permits	3-54
Brewery/taproom license	3-53

	Section
ALCOHOLIC BEVERAGES (Cont'd.)	
Brewpub off-sale intoxicating malt liquor license	3-56
Culinary liquor license	3-59
License required	3-48
Microdistilleries; distilled spirit manufacturers; cocktail rooms	3-55
Off-sale liquor license	3-50
On-sale licenses	3-49
On-sale wine license	3-52
Small brewer off-sale license	3-57
Sunday growler off-sale intoxicating license	3-58
Sunday liquor licenses	3-51
Malt liquor licenses	
Off-sale licenses	3-79
On-sale licenses	3-78
Required	3-77
Sale by manufacturer	3-80
Non-enclosed premises	
Application to include non-enclosed area in licensed premises	3-104
Review by site plan review committee	3-105
Standards and specifications	3-106
Violations impact principal license	3-107
Temporary licenses	
Expansion of liquor license	3-129
On-sale intoxicating, or 3.2 percent malt liquor license	3-128
Offenses	
Offenses against peace and order	
Open containers of alcoholic beverages	12-25
Parks and recreation	
Alcoholic beverages	13-10
Procedure	
Adult uses	3-161
Application for license	3-157
Closing of establishment	3-163
Conditions of license	3-160
Issuance of license	3-158
Restrictions on issuance	3-159
Sanctions; suspension or revocation	3-164
Times when sales are prohibited	3-162
State law adopted	3-1
AMUSEMENTS AND ENTERTAINMENTS	
Taxation	15-93 et seq.
See: TAXATION	
ANIMALS	
Contract for enforcement services	4-2
Definitions	4-1
Dogs and cats	
Excessive noise	4-39
Impounding	4-41

	Section
ANIMALS (Cont'd.)	
Limitation on number of dogs per household	4-38
Potentially dangerous and dangerous dogs	
Appeal of designation	4-80
Confiscation	4-82
Dangerous dogs	4-76
Destruction of dog in certain circumstances	4-83
Dog ownership prohibited by state law	4-88
Exemption	4-78
Fees	4-84
Law enforcement; exemption	4-79
Leash and muzzle	4-77
Notice of removal	4-85
Notice to property owner	4-86
Penalties	4-87
Potentially dangerous dogs	4-75
Requirements of owner pending appeal	4-81
Rabies prevention and control	4-43
Registration required	4-37
Running at large	4-40
Waste	4-42
Feeding of deer prohibited	4-5
Hobby kennel license	4-8
Humane treatment; housing standards	4-3
Interference with animal confinement or designated enforcement officials	4-9
Restraining animals on roadway portion of boulevards and sidewalks	4-6
Running at large prohibited; exceptions	4-4
Zoning restrictions; accessory use license	4-7
ANNEXATIONS	
Land use and development	10-4 et seq.
See: LAND USE AND DEVELOPMENT	
APPEALS	
Administrative procedure	2-96 et seq.
See: ADMINISTRATION	
Animals	
Dogs and cats	
Potentially dangerous and dangerous dogs	
Appeal of designation	4-80
Requirements of owner pending appeal	4-81
Boards, commissions, and committees	
Local board of appeal and equalization (property assessment and classification)	2-36
Buildings, housing and construction	
Construction codes	
Housing code	
Appeal to council	5-86
Generally	5-83

Section

APPEALS (Cont'd.)
Fire prevention and other public safety control
Alarm systems
Review; suspension; appeal 9-59
Land use and development ..... 10-1814 et seq.
See: LAND USE AND DEVELOPMENT
Streets, sidewalks and other public places
Landscape management
Vegetation maintenance
Appeal 14-189
Right-of-way management
Appeal..... 14-56

ARCHITECTURE
Land use and development
Standard of general applicability
Signs
General requirements
Franchise architecture..... 10-1699(g)

AREA
Alcoholic beverages
Licenses and permits
Non-enclosed premises
Application to include non-enclosed area in licensed premises 3-104
Businesses and licensing ..... 6-151 et seq.
See: BUSINESSES AND LICENSING
Land use and development ..... 10-95 et seq.
See: LAND USE AND DEVELOPMENT
Traffic and vehicles
Dockless scooters
Change in operating area, limited speed, and restrictions of use 16-138

ASSEMBLIES
Land use and development ..... 10-582 et seq.
See: LAND USE AND DEVELOPMENT

B

BICYCLES
Land use and development
Standard of general applicability
Off-street parking
Standards and units of measurement to determine off-street parking
Parking for bicycles..... 10-1628(6)
Parks and recreation
Use of bike trails restricted 13-11
Streets, sidewalks and other public places
Sidewalk, bicycle and trail systems established 14-9

Section

BICYCLES (Cont'd.)
Traffic and vehicles ..... 16-35 et seq.
See: TRAFFIC AND VEHICLES
Utilities
Accounts, rates, billing, and collection
Certification cycles 17-220

BOARDS, COMMISSIONS, AND COMMITTEES
Alcoholic beverages
Licenses and permits
Non-enclosed premises
Review by site plan review committee 3-105
Conflict of interest 2-39
Heritage preservation commission..... 2-35
Land use and development ..... 10-1858 et seq.
See: LAND USE AND DEVELOPMENT
Local board of appeal and equalization (property assessment and classification) 2-36
Other boards and committees 2-38
Planning commission..... 2-37
Taxation
Lodging tax
Agreement with the commissioner..... 15-26
Sales and use tax
Agreement with the commissioner..... 15-67

BOATS, DOCKS AND WATERWAYS
Traffic and vehicles ..... 16-132 et seq.
See: TRAFFIC AND VEHICLES

BONDS, SURETY OR PERFORMANCE
Land use and development
Standard of general applicability
Special provisions applicable to specific permitted and conditional uses
Extraction, stockpiling, and processing of minerals and materials
Bond requirements ..... 10-1507(f)
Parks and recreation
Special events
Fees; surety bonds 13-36
Streets, sidewalks and other public places
Right-of-way management
Permit required; bond; exceptions 14-47

BOUNDARIES
Land use and development ..... 10-5(b) et seq.
See: LAND USE AND DEVELOPMENT

BRIDGES AND CULVERTS
Land use and development ..... 10-1296 et seq.
See: LAND USE AND DEVELOPMENT

	Section
BUILDINGS, HOUSING AND CONSTRUCTION	
Authority and right of entry	5-3
Construction codes	
Fences	5-20
Fire code	
Aboveground liquid storage limits	5-47
Adoption	5-44
Definitions	5-45
Enforcement	5-46
Explosive and blasting agent storage limits	5-49
Fires or barbecues on balconies or patios	5-50
Liquefied petroleum gas storage limits	5-48
Notices and orders	5-51
Prohibition	5-52
Violation	5-53
Fire protection	5-21
Housing code	
Adopted by reference; exceptions and modifications	5-82
Appeal to council	5-86
Appeals	5-83
Filing	5-85
Inspection upon complaint	5-87
Waiver	5-84
State building code adopted by reference	5-19
Definitions	5-2
Land use and development	10-97(5) et seq.
See: LAND USE AND DEVELOPMENT	
Permits	
Building permits	5-116
Mechanical permit required	5-119
Plumbing permit required	5-118
Structure moving permit	5-117
Public safety radio transmissions	
Public safety 800 MHz radio frequency coverage	5-150
Purpose	5-1
Streets, sidewalks and other public places	
Landscape management	
Building operations	14-155
BUSINESSES AND LICENSING	
Land use and development	10-498 et seq.
See: LAND USE AND DEVELOPMENT	
Licensing	
Applications	6-20
Background checks	6-22
Definitions	6-19
Procedure generally	6-21
Purpose and intent	6-18

Section

BUSINESSES AND LICENSING (Cont'd.)
Specific business operations
Carnivals
Application 6-75
Conditions 6-77
Definitions 6-72
Gambling prohibited 6-74
Issuance 6-78
License required 6-73
Review 6-76
Gambling
Age restrictions 6-308
Applications 6-306
Bingo halls 6-307
Definitions 6-305
Local trade area expenditures
Monthly report 6-314
Required 6-313
Multiple licenses 6-309
Proceeds 6-311
State lawful gambling tax return 6-312
Tax 6-310
Mobile food units
Application 6-274
Conditions 6-277
Definitions 6-270
Exemptions 6-272
Food hubs 6-273
Inspection 6-275
License required 6-271
Location review and standards 6-276
Revocation of license 6-278
Pawn shops
Application 6-336
Business at only one location 6-347
Daily reports to department of public safety 6-338
Definitions 6-333
Denial, suspension or revocation of license 6-346
Holding period 6-341
Inspection of items 6-343
Label required 6-344
License fees 6-335
License required 6-334
Police order to hold property 6-342
Prohibited acts 6-345
Receipt required 6-339
Records required 6-337
Redemption period 6-340
Statement of policy 6-332

	Section
BUSINESSES AND LICENSING (Cont'd.)	
Peddlers, solicitors and similar vendors	
Days of operation	6-154
Definitions	6-142
Display of license	6-145
Exemptions	6-148
License refusal	6-149
License required	6-143
Parking	6-153
Practices prohibited	6-147
Registration permit required for vendors	6-146
Restricted areas	6-151
Revocation of license	6-150
Separate license	6-144
Setbacks	6-152
Refuse haulers	6-49
Taxicabs	
Business license	6-219
Business office	6-233
Certificate of inspection	6-230
Daily manifests	6-229
Definitions	6-218
Dispatch	6-234
Display of license	6-222
Driver impairment	6-228
Drivers	6-226
Insurance required	6-223
License required	6-220
Number of licenses	6-224
Occupants allowed in vehicle	6-231
Rates	6-225
Sanctions; suspension or revocation	6-237
Smoking	6-227
Taxi stands	6-236
Taxicab markings	6-232
Taxicabs licensed outside city	6-235
Transfer	6-221
Tobacco	
Basis for denial of license	6-107
Compliance checks and inspections	6-110
Definitions	6-105
Exceptions and defenses	6-112
License required	6-106
Other prohibited acts	6-111
Prohibited sales	6-108
Purpose and intent	6-104
Responsibility	6-109
Violations and penalty	6-113
Transportation network companies	
Commercial advertisements prohibited	6-188

Section

BUSINESSES AND LICENSING (Cont'd.)
Definitions 6-179
Distinctive trade dress 6-187
Driver identification card 6-191
Driver requirements 6-189
Insurance required 6-184
Intoxicating substance policy 6-190
Investigation and license issuance 6-183
License application 6-181
License required 6-180
Operating regulations 6-192
Qualifications 6-182
Records and reports 6-194
Sanctions; suspension or revocation 6-196
Services charges and fare rates 6-193
Vehicle inspections 6-186
Vehicle ownership and standards 6-185
Violations and penalties 6-195

C

CERTIFICATES, CERTIFICATION
Businesses and licensing
Specific business operations
Taxicabs
Certificate of inspection 6-230
Land use and development ..... 10-852 et seq.
See: LAND USE AND DEVELOPMENT
Taxation
Sales and use tax
Exemption certificate 15-59
Utilities
Accounts, rates, billing, and collection
Certification cycles 17-220

CITY COUNCIL
Land use and development ..... 10-1860 et seq.
See: LAND USE AND DEVELOPMENT
Nuisances
Specific nuisances
Authority of city council to manage waste disposal and promulgate rules 11-34

CITY MANAGER
Administration
City manager 2-2
Parks and recreation
City manager may promulgate rules and regulations 13-5
Traffic and vehicles
City manager's authority to regulate traffic 16-3

	Section
CIVIL EMERGENCIES	
Administration	
Emergency management	2-6
Nuisances	
Emergency abatement procedure	11-14
Streets, sidewalks and other public places	
Right-of-way management	
Emergency work	14-54
Traffic and vehicles	
Parking	
Emergency parking	16-171
CODE OF ORDINANCES*	
Administration	2-1 et seq.
See: ADMINISTRATION	
Alcoholic beverages	3-1 et seq.
See: ALCOHOLIC BEVERAGES	
Amendments to Code	1-10
Animals	4-1 et seq.
See: ANIMALS	
Buildings, housing and construction	5-1 et seq.
See: BUILDINGS, HOUSING AND CONSTRUCTION	
Businesses and licensing	6-18 et seq.
See: BUSINESSES AND LICENSING	
Catchlines, notes and references	1-4
Certain ordinances not affected by Code	1-7
Code does not affect prior offenses, penalties and rights	1-6
Definitions	1-2
Designation and citation of Code; applicability of chapter and Code	1-1
Dwelling unit rental	7-1 et seq.
See: DWELLING UNIT RENTAL	
Environmental control	8-19 et seq.
See: ENVIRONMENTAL CONTROL	
Errors and omissions	1-5
Fire prevention and other public safety control	9-19 et seq.
See: FIRE PREVENTION AND OTHER PUBLIC SAFETY CONTROL	
General penalties	1-8
Land use and development	10-1 et seq.
See: LAND USE AND DEVELOPMENT	
Nuisances	11-1 et seq.
See: NUISANCES	
Offenses	12-1 et seq.
See: OFFENSES	
Parks and recreation	13-1 et seq.
See: PARKS AND RECREATION	

*__Note—__The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

	Section
CODE OF ORDINANCES (Cont'd.)	
Rules of construction	1-3
Separability	1-9
Streets, sidewalks and other public places	14-1 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
Supplementation of Code	1-11
Taxation	15-1 et seq.
See: TAXATION	
Traffic and vehicles	16-1 et seq.
See: TRAFFIC AND VEHICLES	
Utilities	17-1 et seq.
See: UTILITIES	
CONTRACTS AND AGREEMENTS	
Animals	
Contract for enforcement services	4-2
Land use and development	
District regulations	
Private agreements	10-6(e)
Subdivision and development regulations (platting)	
Basic improvements required	
Approval and agreement requirement of plat	10-2244
Streets, sidewalks and other public places	
Right-of-way management	
Encroachments	
Agreement to be recorded	14-88
License agreement	14-87
Taxation	
Lodging tax	
Agreement with the commissioner	15-26
Sales and use tax	
Agreement with the commissioner	15-67
Utilities	
Franchise agreements	17-2
CONTROLLED SUBSTANCES	
Nuisances	
Specific nuisances	
Health nuisances	
Food, drugs, and beverages	11-62
CURBS AND GUTTERS	
Land use and development	
Standard of general applicability	
Off-street parking	
General parking provisions	
Curb and striping	10-1619(5)
Streets, sidewalks and other public places	
Construction of roadway, sidewalk and curb	14-8
Curb setback	14-10

Section

CURBS AND GUTTERS (Cont'd.)
Traffic and vehicles
Parking
Parking on street without curb 16-169
Utilities
Water
Curb stops and service line location and maintenance 17-29

CURFEW
Offenses
Offenses against peace and order 12-26

D

DAMAGE, DEFACEMENT, DESTRUCTION, INJURY, ETC.
Animals
Dogs and cats
Potentially dangerous and dangerous dogs
Destruction of dog in certain circumstances 4-83
Land use and development ..... 10-1378 et seq.
See: LAND USE AND DEVELOPMENT

DENSITY
Dwelling unit rental
Conditions of licensure
Rental density 7-57
Land use and development
Shoreland management
Planned unit developments (PUDS)
Density determination..... 10-1119

DISABLED OR HANDICAPPED PERSONS
Land use and development
Standard of general applicability
Off-street parking
Handicap parking 10-1621

DISTRICTS
Land use and development ..... 10-3 et seq.
See: LAND USE AND DEVELOPMENT
Traffic and vehicles
Parking
Special service district established 16-180

DRAINAGE
Land use and development
Manufactured homes
Manufactured home parks
Environmental, open spaces, and access requirements
Site drainage requirements ..... 10-370(c)
Subdivision and development regulations (platting)
Basic improvements required
Sanitary and storm drains 10-2245

Section

DRAINAGE (Cont'd.)
Utilities ..... 17-60 et seq.
See: UTILITIES

DRIVEWAYS
Land use and development ..... 10-1064 et seq.
See: LAND USE AND DEVELOPMENT

DWELLING UNIT RENTAL
Administration and enforcement
Enforcement authority 7-109
Offender transitional housing 7-110
Conditions of licensure
Agent required; exceptions 7-53
Conduct on licensed premises 7-55
General conditions 7-49
License posting 7-50
Refuse removal and recycling 7-54
Register of occupancy 7-52
Rental density 7-57
Training 7-56
Transfer 7-51
Definitions 7-2
Licensing
Inspections 7-30
License application, fees, reissuance; false statements 7-27
License required 7-25
Procedure generally 7-26
Temporary licenses 7-29
Term; expiration and renewal 7-28
Off-street parking for rental properties
Location and design of off-street parking 7-89
Nonconforming off-street parking 7-90
Parking ratio 7-88
Owner responsibilities defined 7-3
Purpose and intent 7-1

E

EASEMENTS
Land use and development
Subdivision and development regulations (platting)
Design standards 10-2190

EMERGENCIES
Administration
Emergency management 2-6
Nuisances
Emergency abatement procedure 11-14
Streets, sidewalks and other public places
Right-of-way management
Emergency work 14-54

	Section
EMERGENCIES (Cont'd.)	
Traffic and vehicles	
Parking	
Emergency parking	16-171
ENTRY	
Buildings, housing and construction	
Authority and right of entry	5-3
Utilities	
Right of entry	17-4
ENVIRONMENTAL CONTROL	
Erosion and sediment control	
Definitions	8-20
Inspections	8-29
Land disturbance permit	
Application required	8-24
Duration of coverage	8-27
Exceptions	8-23
Fees	8-25
Standards	8-26
Land use exemptions	8-22
Penalties	8-31
Purpose and intent	8-19
Subject land use activities	8-21
Termination of coverage	8-28
Violations and enforcement	8-30
EXPLOSIVES	
Buildings, housing and construction	
Construction codes	
Fire code	
Explosive and blasting agent storage limits	5-49
Fire prevention and other public safety control	9-19 et seq.
See: FIRE PREVENTION AND OTHER PUBLIC SAFETY CONTROL	
F	
FALSE ALARMS	
Fire prevention and other public safety control	
Alarm systems	
Response to notice of false alarms	9-58
FALSE STATEMENTS	
Dwelling unit rental	
Licensing	
License application, fees, reissuance; false statements	7-27
FEES, CHARGES AND RATES	
Animals	
Dogs and cats	

	Section
FEES, CHARGES AND RATES (Cont'd.)	
Potentially dangerous and dangerous dogs	
Fees	4-84
Businesses and licensing	6-335 et seq.
See: BUSINESSES AND LICENSING	
Dwelling unit rental	
Licensing	
License application, fees, reissuance; false statements	7-27
Environmental control	
Erosion and sediment control	
Land disturbance permit	
Fees	8-25
Land use and development	10-905 et seq.
See: LAND USE AND DEVELOPMENT	
Parks and recreation	
Special events	
Fees; surety bonds	13-36
Streets, sidewalks and other public places	
Right-of-way management	
Fees	14-45
Traffic and vehicles	
Dockless scooters	
Permit fees	16-135
Utilities	17-221 et seq.
See: UTILITIES	
FENCES, WALLS, HEDGES AND ENCLOSURES	
Buildings, housing and construction	
Construction codes	
Fences	5-20
Land use and development	10-1746 et seq.
See: LAND USE AND DEVELOPMENT	
FINES, FORFEITURES AND OTHER PENALTIES	
Administrative procedure	2-74 et seq.
See: ADMINISTRATION	
Animals	
Dogs and cats	
Potentially dangerous and dangerous dogs	
Penalties	4-87
Businesses and licensing	
Specific business operations	
Tobacco	
Violations and penalty	6-113
Transportation network companies	
Violations and penalties	6-195
Code of ordinances	
Code does not affect prior offenses, penalties and rights	1-6
General penalties	1-8

Section

FINES, FORFEITURES AND OTHER PENALTIES (Cont'd.)
Environmental control
Erosion and sediment control
Penalties 8-31
Land use and development ..... 10-1410 et seq.
See: LAND USE AND DEVELOPMENT
Nuisances
Administrative penalties 11-10
Criminal penalty 11-9
Parks and recreation
Penalties 13-3
Streets, sidewalks and other public places
Pedestrian corridor management
Penalties 14-117
Traffic and vehicles
Parking
Penalty 16-182
Utility-terrain vehicles and mini-trucks
Violation; penalty 16-109

FIRE PREVENTION AND OTHER PUBLIC SAFETY CONTROL
Alarm systems
Alarm systems utilizing taped or prerecorded messages 9-57
Definitions 9-53
Initial application 9-55
Permits and exemptions 9-54
Permits nontransferable 9-56
Response to notice of false alarms 9-58
Review; suspension; appeal 9-59
Statement of policy 9-52
Buildings, housing and construction ..... 5-21 et seq.
See: BUILDINGS, HOUSING AND CONSTRUCTION
Explosives
Definitions 9-19
Permit or license required 9-20
Revocation 9-22
Standards for denial 9-21
Transfer of explosives 9-23
Use or storage of explosives 9-24
Fireworks
General regulations 9-79
Land use and development
Manufactured homes
Manufactured home parks
Fire protection 10-377
Utilities
Water
Fire suppression system 17-31

Section

FIREARMS AND WEAPONS
Parks and recreation
Weapons 13-8

FIREWORKS
Fire prevention and other public safety control
Fireworks
General regulations..... 9-79

FLOODS AND FLOODING
Land use and development ..... 10-1209 et seq.
See: LAND USE AND DEVELOPMENT

FOOD AND FOOD SERVICES
Businesses and licensing ..... 6-270 et seq.
See: BUSINESSES AND LICENSING
Nuisances
Specific nuisances
Health nuisances
Food, drugs, and beverages..... 11-62
Taxation ..... 15-93 et seq.
See: TAXATION

FRANCHISES
Land use and development
Standard of general applicability
Signs
General requirements
Franchise architecture..... 10-1699(g)
Streets, sidewalks and other public places
Right-of-way management
Franchise holders 14-63
Utilities
Franchise agreements..... 17-2

G

GRADES, GRADING
Land use and development
Shoreland management
Shoreland overlay district
Shoreland alterations
Topographic alterations and grading and filling ..... 10-1063(2)

H

HEALTH AND SANITATION
Nuisances..... 11-61 et seq.
See: NUISANCES

HEARINGS
Administrative procedure

Section

HEARINGS (Cont'd.)
Administrative appeals
Appeal from administrative hearings 2-98
Certain violations appealable by review or hearing 2-96
Land use and development ..... 10-369 et seq.
See: LAND USE AND DEVELOPMENT

HOURS
Parks and recreation
Closing hours..... 13-14
Streets, sidewalks and other public places
Pedestrian corridor management
Hours of operation..... 14-113

HOUSING
Affordable housing trust fund ..... 2-129 et seq.
See: AFFORDABLE HOUSING TRUST FUND
Animals
Humane treatment; housing standards 4-3
Buildings, housing and construction ..... 5-1 et seq.
See: BUILDINGS, HOUSING AND CONSTRUCTION
Dwelling unit rental
Administration and enforcement
Offender transitional housing 7-110
Land use and development ..... 10-33 et seq.
See: LAND USE AND DEVELOPMENT

I

IDENTIFICATION
Businesses and licensing
Specific business operations
Transportation network companies
Driver identification card 6-191
Land use and development
Subdivision and development regulations (platting)
Procedure
Data required for preliminary plat
Identification and description..... 10-2157(1)

IMPOUNDMENT
Animals
Dogs and cats
Impounding 4-41
Traffic and vehicles
Dockless scooters
Impounding authorized..... 16-137
Parking
Moving or impounding vehicles..... 16-181

Section

INCORPORATION AND POWERS
Land use and development ..... 10-3(c) et seq.
See: LAND USE AND DEVELOPMENT

INDEMNIFICATION
Streets, sidewalks and other public places
Right-of-way management
Indemnification and liability 14-62
Traffic and vehicles
Dockless scooters
Insurance/indemnification requirements..... 16-140

INDUSTRIES
Land use and development ..... 10-931 et seq.
See: LAND USE AND DEVELOPMENT
Utilities
Wastewater
Industrial wastewater discharge permit..... 17-68

INSPECTIONS
Buildings, housing and construction
Construction codes
Housing code
Inspection upon complaint..... 5-87
Businesses and licensing ..... 6-110 et seq.
See: BUSINESSES AND LICENSING
Dwelling unit rental
Licensing 7-30
Environmental control
Erosion and sediment control 8-29
Land use and development ..... 10-368 et seq.
See: LAND USE AND DEVELOPMENT
Nuisances
Specific nuisances
Diseased trees
Inspection and investigation 11-113

INSTITUTIONS
Land use and development ..... 10-319 et seq.
See: LAND USE AND DEVELOPMENT

INSURANCE
Businesses and licensing
Specific business operations
Taxicabs
Insurance required..... 6-223
Transportation network companies
Insurance required..... 6-184
Land use and development
Floodplain management
Administration

Section

INSURANCE (Cont'd.)
Variances
Flood insurance notice ..... 10-1352(d)
Traffic and vehicles
Dockless scooters
Insurance/indemnification requirements..... 16-140

INTERFERENCE
Animals
Interference with animal confinement or designated enforcement officials 4-9
Land use and development
Standard of general applicability
Performance standards
Electromagnetic interference 10-1776
Nuisances
Specific nuisances
Diseased trees
Interference prohibited..... 11-116
Streets, sidewalks and other public places
Landscape management
Interference unlawful 14-156

INVESTIGATIONS
Businesses and licensing
Specific business operations
Transportation network companies
Investigation and license issuance..... 6-183
Nuisances
Specific nuisances
Diseased trees
Inspection and investigation 11-113
Streets, sidewalks and other public places
Right-of-way management
Encroachments
Investigation..... 14-90

L

LAND DEVELOPMENT
Land use and development
Shoreland management
Shoreland overlay district
Land development restrictions 10-1061

LAND USE AND DEVELOPMENT
Administration and enforcement
Administration
Authority 10-1856
Board of adjustments and appeals 10-1858
City council..... 10-1860
Planning agency..... 10-1859

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Summary of authority	10-1855
Zoning administrator	10-1857
Administrative interpretations	
Authority	10-2034
Effect of favorable use interpretations	10-2039
Limitations on favorable use interpretations	10-2040
Parties entitled to seek interpretations	10-2036
Procedure	10-2037
Action on	10-2037(2)
Appeals	10-2037(4)
Records	10-2037(3)
Requests	10-2037(1)
Purpose	10-2035
Standards for use interpretations	10-2038
Amendments	
Authority	10-2059
Fees	10-2065
Parties entitled to initiate	10-2061
Procedure for review and decision	10-2064
City council action	10-2064(4)
Notice	10-2064(2)
Planning agency action	10-2064(3)
Public hearing	10-2064(1)
Purpose	10-2060
Requirements for petitions	10-2062
Standards	10-2063
Appeals	
Authority	10-2094
Conditions and limitations on rights granted	10-2099
Fees	10-2100
Procedure	10-2097
Action of zoning administrator	10-2097(2)
Application	10-2097(1)
Board of adjustments and appeals action	10-2097(5)
Notice	10-2097(4)
Public hearing	10-2097(3)
Purpose	10-2095
Right to grant variances	10-2098
Stay of proceedings	10-2096
Certificate of occupancy and building permits	
Authority	10-1976
Certificate of occupancy for existing uses	10-1981
Certificate of occupancy for legal nonconforming uses	10-1982
Certificate required	10-1978
Procedure	10-1979
Action on application	10-1979(2)
Additional inspection cost	10-1979(5)
Application	10-1979(1)
Contents of certificate	10-1979(3)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Filing of certificates	10-1979(4)
Purpose	10-1977
Temporary certificate of occupancy	10-1980
Void certificates of occupancy and building permit	10-1983
Conditional use permits	
Authority	10-1879
Conditions	10-1885
Effect of approval	10-1887
Fee	10-1889
Limitations	10-1888
No presumption of approval	10-1886
Persons entitled to seek permits	10-1881
Procedure	10-1882
Action of the city council	10-1882(6)
Action of the planning agency	10-1882(5)
Action of zoning administrator	10-1882(2)
Application	10-1882(1)
Notice	10-1882(4)
Public hearing	10-1882(3)
Purpose	10-1880
Sequence of approval of applications for both a conditional use and a variance	10-1884
Standards	10-1883
Enforcement	
Authority	10-2005
Inspections	10-2005(1)
Procedure upon discovery of violation	10-2005(2)
Planned unit developments	
Adjustments to the development site plan	10-1918
Major adjustments	10-1918(3)
Minor adjustments	10-1918(2)
New application required	10-1918(1)
Application procedure	10-1913
Formal application-development plan	10-1913(3)
Information needed for the preapplication conference	10-1913(2)
Preapplication conference	10-1913(1)
Review procedure	10-1913(4)
Authority	10-1907
Effect of approval of a planned unit development	10-1916
Fee	10-1919
General provisions	10-1910
Authority to modify regulations	10-1910(3)
Control of the planned development	10-1910(1)
Limitations	10-1910(4)
Uses allowed	10-1910(2)
Minimum area	10-1912
Public benefit	10-1909
Purpose	10-1908

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Regulations during and following completion of development	10-1917
Site design	10-1911
Standards	10-1914
Time limit on approved planned unit development	10-1915
Variances	
Authority	10-1937
Conditions on variances	10-1942
Effect of grant of variance	10-1943
Fee	10-1946
Limitations on variance	10-1944
Parties entitled to seek variances	10-1939
Procedure	10-1940
Action of zoning administrator	10-1940(2)
Application	10-1940(1)
Board of adjustments and appeals action	10-1940(5)
Notice	10-1940(4)
Public hearing	10-1940(3)
Prohibited variances	10-1945
Purpose	10-1938
Standards	10-1941
Denied substantial rights	10-1941(4)
Essential character of the area	10-1941(8)
General standard	10-1941(1)
No other remedy	10-1941(6)
Not merely special privilege	10-1941(5)
Not self-created	10-1941(3)
Unique and particular hardship	10-1941(2)
Variance less than requested	10-1941(7)
Annexed land	10-4
Annexation of land	10-4(a)
Application for different classification	10-4(b)
Commercial districts	
CBD-C central business district-core	
Conditional uses	10-500
Downtown design district	10-508
Floor area bonus incentives	10-506
Public benefits and corresponding bonus incentives	10-506(1)
Standards for granting the bonus incentives	10-506(2)
Maximum building height	10-507
Maximum floor area ratio	10-505
Maximum ground coverage	10-504
Minimum lot area	10-501
Minimum lot frontage	10-502
Permitted uses	10-499
Purpose	10-498
Yards and setbacks	10-503
None required	10-503(a)
Transitional yard	10-503(b)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
CBD-F central business district-fringe	
Building design and construction	10-588
Additions and accessory buildings	10-588(2)
Exterior wall finish	10-588(1)
Building design and construction	10-621
Additions and accessory buildings	10-621(2)
Exterior wall finish	10-621(1)
Building design and construction	10-657
Additions and accessory buildings	10-657(2)
Exterior wall finish	10-657(1)
Conditional uses	10-542
Conditional uses	10-581
Conditional uses	10-614
Conditional uses	10-650
Downtown design district	10-550
Floor area bonus incentives	10-548
Public benefits and corresponding bonus incentives	10-548(1)
Standards for granting the bonus incentives	10-548(2)
Maximum building height	10-549
Maximum building height	10-589
Maximum building height	10-622
Maximum building height	10-658
Maximum floor area ratio	10-547
Maximum floor area ratio	10-587
Maximum floor area ratio	10-620
Maximum floor area ratio	10-656
Maximum ground coverage	10-546
Maximum ground coverage	10-586
Maximum ground coverage	10-619
Maximum ground coverage	10-655
Minimum lot area	10-543
Minimum lot area	10-583
Minimum lot area	10-652
Minimum lot frontage	10-544
Minimum lot size	10-616
Minimum street frontage	10-585
Minimum street frontage	10-617
Minimum street frontage	10-653
Permitted uses	10-541
Permitted uses	10-580
Permitted uses	10-613
Permitted uses	10-649
Purpose	10-540
Purpose	10-579
Purpose	10-612
Purpose	10-648
Special requirements for light manufacturing and assembly	10-582
Special requirements for light manufacturing and assembly	10-615
Special requirements for light manufacturing and assembly	10-651

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Yards and setbacks	10-545
None required	10-545(a)
Transitional yard	10-545(b)
Yards and setbacks	10-584
Front yard setback	10-584(1)
Rear yard setback	10-584(3)
Side yard setback	10-584(2)
Transitional yard	10-584(4)
Yards and setbacks	10-618
Front yard setback	10-618(1)
Rear yard setback	10-618(3)
Side yard setback	10-618(2)
Transitional yard	10-618(4)
Yards and setbacks	10-654
Front yard setback	10-654(1)
Rear yard setback	10-654(3)
Side yard setback	10-654(2)
Transitional yard	10-654(4)
General requirements	
Accessory uses and structures	10-431
Building design and construction	10-471
Additions and accessory buildings	10-471(2)
Exterior wall finish	10-471(1)
Compliance with applicable regulations	10-432
Conditional uses	10-466
General provisions	10-438
Landscaping and screening	10-434
Maximum building height	10-472
Maximum lot coverage	10-470
Minimum lot area	10-467
Minimum lot frontage	10-468
Off-street parking and loading	10-433
Performance standards	10-436
Permitted uses	10-465
Planned unit development	10-439
Purpose	10-464
Signs	10-435
Site plan review	10-437
Urban design guidelines	10-440
Existing development	10-440(2)
New development	10-440(1)
Redevelopment	10-440(3)
Yards and setbacks	10-469
Front yard setback	10-469(1)
Rear yard setback	10-469(3)
Side yard setback	10-469(2)
Transitional yard	10-469(4)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
GT gateway overlay districts	
CGT commercial gateway district	
Application	10-747
Building design and construction	10-753
Additions and accessory buildings	10-753(2)
Exterior wall finish	10-753(1)
Existing development, new development, and redevelopment	10-756
Existing subdivisions	10-755
Maximum building height	10-754
Maximum floor area ratio	10-752
Maximum ground coverage	10-751
Minimum lot area	10-748
Minimum street frontage	10-749
Purpose	10-746
Yards and setbacks	10-750
Drive-through facilities	10-750(4)
Front yard build-to line/setback	10-750(1)
Screening of parking areas	10-750(3)
Side yard/rear yard setback	10-750(2)
Transitional yard	10-750(5)
DGT downtown gateway overlay district	
Application	10-710
Building design and construction	10-716
Additions and accessory buildings	10-716(2)
Exterior wall finish	10-716(1)
Maximum floor area ratio	10-715
Maximum ground coverage	10-714
Minimum lot area	10-711
Minimum street frontage	10-712
Purpose	10-709
Yards and setbacks	10-713
Drive-through facilities	10-713(4)
Front yard build-to line/setback	10-713(1)
Screening of parking areas	10-713(3)
Side yard/rear yard setback	10-713(2)
Gateway design review and certification of design compliance	
Application and plans	10-853
Certificate of design compliance	10-852
Issuance of certificate of design compliance	10-855
Plan review	10-854
General purpose	10-690
HGT highway gateway overlay district	
Application	10-782
Building design and construction	10-788
Additions and accessory buildings	10-788(2)
Exterior wall finish	10-788(1)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Existing development, new development, and redevelopment	10-791
Existing subdivisions	10-790
Maximum building height	10-789
Maximum floor area ratio	10-787
Maximum ground coverage	10-786
Minimum lot area	10-783
Minimum street frontage	10-784
Purpose	10-781
Yards and setbacks	10-785
Drive-through facilities	10-785(3)
Front yard build-to line/setback	10-785(1)
Screening of parking areas	10-785(2)
Side yard/rear yard setback	10-785(4)
Transitional yard	10-785(5)
NGT neighborhood node gateway overlay district	
Application	10-822
Building design and construction	10-828
Additions and accessory buildings	10-828(2)
Exterior wall finish	10-828(1)
Maximum building height	10-829
Maximum floor area ratio	10-827
Maximum ground coverage	10-826
Maximum street frontage	10-824
Minimum lot area	10-823
Purpose	10-821
Yards and setbacks	10-825
Drive-through facilities	10-825(3)
Front and corner side yard build-to line/setback	10-825(1)
Screening of parking areas	10-825(2)
Side yard/rear yard	10-825(4)
Transitional yard	10-825(5)
Definitions	10-2
Design review	
Downtown design district	
Application and plans	10-897
Application; certificate of design compliance	10-896
Design framework established	10-900
Fees	10-905
Issuance of certificate of design compliance	10-899
Nonconforming buildings	10-902
Other regulations applicable	10-906
Plan review	10-898
Sequence of approval of applications for both a certificate of compliance and conditional use permit or variance	10-903
Special review considerations	10-901
Statement of purpose	10-895
Violations	10-904

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
District boundaries	10-5
District boundaries	10-5(a)
Maintenance and availability of the official zoning map	10-5(c)
Single lot divided by a district boundary	10-5(b)
District regulations	10-6
General application	10-6(b)
General prohibition	10-6(c)
Private agreements	10-6(e)
Special prohibitions	10-6(d)
Territorial application	10-6(a)
Floodplain management	
Administration	
Conditional uses	10-1353
Administrative review	10-1353(a)
Conditions of approval	10-1353(c)
Considerations for approval	10-1353(b)
Duties	10-1351
Certificate of zoning compliance for a new, altered, or nonconforming use	10-1351(3)
Notification to FEMA when physical changes increase or decrease base flood elevations	10-1351(5)
Notifications for watercourse alterations	10-1351(4)
Permit application requirements	10-1351(1)
Recordkeeping	10-1351(2)
Notifications to the department of natural resources	10-1354
Variances	10-1352
Additional variance criteria	10-1352(c)
Adherence to state floodplain management standards	10-1352(b)
Conditions of approval	10-1352(f)
Considerations for approval	10-1352(e)
Flood insurance notice	10-1352(d)
Variance applications	10-1352(a)
Amendments	
FEMA floodplain map revisions and new map annexations	10-1433
Required approval	10-1434
Floodplain district	
Abrogation and greater restrictions	10-1211
Definitions	10-1213
Purpose	10-1210
Statutory authorization	10-1209
Warning and disclaimer of liability	10-1212
Jurisdiction and districts	
Annexations	10-1248
Districts	10-1247
Flood fringe district	10-1247(b)
Floodway district	10-1247(a)
General floodplain district	10-1247(c)
Incorporation of maps by reference	10-1246
Lands to which this article applies	10-1245

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Manufactured homes and recreational vehicles	
Manufactured homes	10-1325
Recreational vehicles	10-1326
Nonconformities	
Continuance of nonconformities	10-1377
Substantial improvement and substantial damage determinations	10-1378
Railroads, roads, bridges, and public and private utilities and service facilities	
Private on-site water supply, individual sewage treatment systems, and other service facilities	10-1298
Public transportation facilities	10-1296
Public utilities	10-1297
Requirements and establishment of all floodplain districts	
Flood fringe district	10-1274
Conditional uses in flood fringe	10-1274(c)
Permitted uses in flood fringe	10-1274(a)
Standards for conditional uses in flood fringe	10-1274(d)
Standards for permitted uses in flood fringe	10-1274(b)
Floodway district	10-1273
Conditional uses in floodway	10-1273(c)
Permitted uses in floodway	10-1273(a)
Standards for conditional uses in floodway	10-1273(d)
Standards for permitted uses in floodway	10-1273(b)
General floodplain district	10-1275
Encroachment analysis	10-1275(c)
Permitted uses	10-1275(a)
Standards for determining flood elevations	10-1275(b)
Standards for the analysis of floodway boundaries	10-1275(d)
Minimum development standards	10-1272
No permit required	10-1271
Permit required	10-1270
Subdivision standards	10-1276
Violations and penalties	
Civil remedies	10-1411
Enforcement	10-1412
Uses in violation	10-1410
Industrial districts	
Accessory uses and structures	10-931
Compliance with applicable regulations	10-932
General provisions	10-938
Landscaping and screening	10-934
Off-street parking and loading	10-933
Performance standards	10-936
PI planned industrial district	
Building design and construction	10-978
Additions and accessory buildings	10-978(2)
Exterior wall finish	10-978(1)
Conditional uses	10-1002

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Conditional uses	10-1030
Conditional uses	10-971
Maximum building height	10-1006
Maximum building height	10-1034
Maximum building height	10-975
Maximum floor area ratio	10-977
Maximum ground coverage	10-1007
Maximum ground coverage	10-1035
Maximum ground coverage	10-976
Minimum lot area	10-1003
Minimum lot area	10-1031
Minimum lot area	10-972
Minimum lot frontage	10-1004
Minimum lot frontage	10-973
Minimum lot width	10-1032
Permitted uses	10-1001
Permitted uses	10-1029
Permitted uses	10-970
Purpose	10-1000
Purpose	10-1028
Purpose	10-969
Yards and setbacks	10-1005
Front yard setback	10-1005(1)
Rear yard setback	10-1005(3)
Side yard setback	10-1005(2)
Transitional yard setback	10-1005(4)
Yards and setbacks	10-1033
Front yard setback	10-1033(1)
Rear yard setback	10-1033(3)
Side yard setback	10-1033(2)
Transitional yard setback	10-1033(4)
Yards and setbacks	10-974
Front yard setback	10-974(1)
Rear yard setback	10-974(3)
Side yard setback	10-974(2)
Transitional yard setback	10-974(4)
Planned unit development	10-939
Signs	10-935
Site plan review	10-937
Urban design guidelines	10-940
Existing development	10-940(2)
New development	10-940(1)
Redevelopment	10-940(3)
IO institutional overlay district	
Use regulations	
Accessory uses	10-322
Application	10-320
Building design and construction	10-327
Additions and accessory buildings	10-327(2)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Exterior wall finish	10-327(1)
General requirements for overlay district designation	10-329
Maximum building height	10-326
Maximum ground coverage	10-325
Minimum lot area requirement	10-323
Off-street parking and loading	10-328
Permitted uses	10-321
Purpose	10-319
Yards and setbacks	10-324
Front yard setback	10-324(1)
Rear yard setback	10-324(3)
Side yard setback	10-324(2)
Manufactured homes	
Manufactured home parks	
Environmental, open spaces, and access requirements	10-370
Certain provisions	10-370(d)
General requirements	10-370(a)
Park street system and car parking	10-370(h)
Required recreation areas	10-370(f)
Required separation between manufactured homes	10-370(e)
Required setbacks, buffer strips, and screening	10-370(g)
Site drainage requirements	10-370(c)
Soil and ground cover requirements	10-370(b)
Walks	10-370(i)
Existing nonconforming uses	10-379
Fire protection	10-377
Fuel supply and storage	10-376
Insect and rodent control	10-375
Inspection of manufactured home park	10-368
Notices, hearings, and orders	10-369
Hearing	10-369(b)
Notice	10-369(a)
Orders	10-369(c)
Permits	10-367
Refuse handling	10-374
Responsibilities of the park management	10-378
Service buildings and other community service facilities	10-373
Barbecue pits, fireplaces, stoves, and incinerators	10-373(c)
Generally	10-373(a)
Structural requirements for buildings	10-373(b)
Sewage disposal	10-372
Water supply	10-371
Residential districts	
Accessory uses and structures	10-33
Compliance with applicable regulations	10-34
Conditional uses	10-133
Conditional uses	10-166
Conditional uses	10-202
Conditional uses	10-229

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Conditional uses	10-94
General provisions	10-41
Landscaping and screening	10-36
Maximum building height	10-100
Maximum building height	10-139
Maximum building height	10-172
Maximum building height	10-208
Maximum building height	10-235
Maximum floor area ratio	10-138
Maximum floor area ratio	10-171
Maximum floor area ratio	10-207
Maximum floor area ratio	10-234
Maximum floor area ratio	10-99
Maximum ground coverage	10-137
Maximum ground coverage	10-170
Maximum ground coverage	10-206
Maximum ground coverage	10-233
Maximum ground coverage	10-98
Minimum lot area	10-134
Minimum lot area	10-167
Minimum lot area	10-203
Minimum lot area	10-230
Minimum lot area	10-95
Minimum lot width	10-135
Minimum lot width	10-168
Minimum lot width	10-204
Minimum lot width	10-231
Minimum lot width	10-96
Minimum structural requirements	10-101
Minimum structural requirements	10-140
Minimum structural requirements	10-173
Minimum structural requirements	10-209
Minimum structural requirements	10-236
Off-street parking and loading	10-35
OR office-residential district	
Conditional uses	10-268
Maximum building height	10-274
Maximum floor area ratio	10-273
Maximum ground coverage	10-272
Minimum lot area	10-269
Minimum lot frontage	10-270
Minimum structural requirements	10-275
Permitted uses	10-267
Purpose	10-266
Transitional buffer	10-276
Yards and setbacks	10-271
Accessory buildings	10-271(5)
Front yard setback	10-271(1)
Parking	10-271(6)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Rear yard setback	10-271(3)
Side yard setback	10-271(2)
Transitional yard	10-271(4)
Performance standards	10-38
Permitted uses	10-132
Permitted uses	10-165
Permitted uses	10-201
Permitted uses	10-228
Permitted uses	10-93
Planned unit developments	10-42
Purpose	10-131
Purpose	10-164
Purpose	10-200
Purpose	10-227
Purpose	10-73
Purpose	10-92
Residential occupancies	10-40
Signs	10-37
Special minimum requirements	10-74
State-licensed residential facility	10-39
Yards and setbacks	10-136
Accessory buildings	10-136(5)
Front yard setback	10-136(1)
Parking	10-136(6)
Rear yard setback	10-136(3)
Side yard setback	10-136(2)
Transitional yard	10-136(4)
Yards and setbacks	10-169
Accessory buildings	10-169(5)
Front yard setback	10-169(1)
Parking	10-169(6)
Rear yard setback	10-169(3)
Side yard setback	10-169(2)
Transitional yard	10-169(4)
Yards and setbacks	10-205
Accessory buildings	10-205(5)
Front yard setback	10-205(1)
Parking	10-205(6)
Rear yard setback	10-205(3)
Side yard setback	10-205(2)
Transitional yard	10-205(4)
Yards and setbacks	10-232
Accessory buildings	10-232(5)
Front yard setback	10-232(1)
Parking	10-232(6)
Rear yard setback	10-232(3)
Side yard setback	10-232(2)
Transitional yard	10-232(4)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Yards and setbacks	10-97
Accessory buildings	10-97(5)
Front yard setback	10-97(1)
Parking	10-97(6)
Rear yard setback	10-97(3)
Side yard setback	10-97(2)
Transitional yard	10-97(4)
Scope	10-1
Provisions are cumulative	10-1(b)
Provisions are minimum requirements	10-1(a)
Provisions are not a consent, license, or permit	10-1(c)
Unlawful uses and structures are not validated	10-1(d)
Severability	10-7
Application declared invalid	10-7(2)
Provisions declared invalid	10-7(1)
Shoreland management	
Planned unit developments (PUDS)	
Application	10-1118
Conversions	10-1121
Density determination	10-1119
Step 1	10-1119(1)
Step 2	10-1119(2)
Step 3	10-1119(3)
Step 4	10-1119(4)
Design criteria	10-1120
Erosion control and stormwater management	10-1120(4)
General design standards	10-1120(1)
Open space maintenance and administration requirements	10-1120(3)
Open space requirements	10-1120(2)
Processing	10-1117
Purpose	10-1115
Types of PUDs permissible	10-1116
Shoreland overlay district	
Applicability	10-1057
Bulk and setback regulations	10-1060
Definitions	10-1056
Designation	10-1058
General provisions	10-1055
Abrogation and greater restrictions	10-1055(c)
Enforcement	10-1055(b)
Jurisdiction	10-1055(a)
Notifications to the department of natural resources	10-1055(d)
Land development restrictions	10-1061
Bluff impact zones	10-1061(b)
Design criteria for structures	10-1061(f)
High water elevations	10-1061(e)
Placement of structures on lots	10-1061(a)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Setbacks and screening for uses without water-oriented needs	10-1061(d)
Steep slopes	10-1061(c)
Permitted and conditional uses	10-1059
Generally	10-1059(a)
Nonconformities	10-1059(b)
Use standards	10-1059(c)
Placement and design of roads, driveways and parking areas	10-1064
Purpose	10-1054
Shoreland alterations	10-1063
Connections to public waters	10-1063(3)
Topographic alterations and grading and filling	10-1063(2)
Vegetation alterations	10-1063(1)
Subdivision/platting provisions	10-1062
Consistency with other controls	10-1062(c)
Land suitability	10-1062(b)
Purpose	10-1062(a)
Stormwater management	
Standards	10-1151
Standard of general applicability	
Accessory uses and structures	10-1462
Compliance	10-1462(1)
General yard, bulk, and height limitations	10-1462(3)
Kennel, private	10-1462(5)
Minimum structural requirements	10-1462(4)
Satellite dishes and antennas	10-1462(6)
Use limitations	10-1462(2)
Adult uses	
Accessory uses	10-1541
Definitions	10-1537
Enforcement	10-1543
General provisions	10-1539
Nonconforming principal or accessory uses	10-1542
Principal uses	10-1540
Purpose	10-1538
Basement dwellings	10-1464
Computation of lot area with adjoining alley	10-1469
Computation of rear yard with adjoining alley	10-1468
Corner lots	10-1465
Decks, patios, balconies, and ramps in the R-1, R-2, R-3, R-4, and OR zoning districts	10-1470
Exceptions to district setback and height restrictions	10-1467
Building height exceptions	10-1467(b)
Exception for continuation of existing building line	10-1467(d)
Front yard exception	10-1467(a)
Side yard exceptions for attached private garages	10-1467(c)
Landscaping and screening	
Antennas and support structures	10-1744

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Applicability	10-1737
Fences	10-1746
Construction	10-1746(1)
Height	10-1746(2)
Setbacks	10-1746(3)
General landscaping and maintenance requirements	10-1736
Interior landscaping; off-street parking lots	10-1741
Landscape plans	10-1738
Content of landscape plan	10-1738(1)
Design criteria	10-1738(2)
Off-street loading areas	10-1742
Perimeter landscaping; off-street parking lots	10-1740
Refuse containers	10-1743
Rooftop mechanical equipment	10-1745
Transitional yards	10-1739
Nonconformities	
Burden of owner to establish legality of nonconformity	10-1583
General scope and scheme of regulation	10-1576
Nonconforming accessory uses and structures	10-1582
Nonconforming junkyards	10-1580
Nonconforming lots	10-1579
Nonconforming parking, driveway, and driving surfaces	10-1581
Nonconforming structures	10-1578
Damage or destruction	10-1578(3)
Moving	10-1578(2)
Repair, maintenance, alterations, and enlargement	10-1578(1)
Nonconforming uses	10-1577
Authority to continue	10-1577(b)
Restrictions	10-1577(a)
Purposes	10-1575
Obstructions	10-1463
Off-street loading	
Access of off-street loading areas	10-1663
Central or joint loading	10-1668
Existing parking facilities	10-1660
General off-street loading provisions	10-1669
Design of loading areas	10-1669(a)
Landscaping and screening	10-1669(c)
Lighting	10-1669(d)
Loading area surface	10-1669(f)
Plan	10-1669(b)
Signs	10-1669(e)
Location of off-street loading areas	10-1662
Minimum facilities required for off-street loading areas	10-1667
Schedule of off-street loading requirements	10-1670
Scope of regulations	10-1659
Size of off-street loading areas	10-1665
Utilization of off-street loading areas	10-1664
Vertical clearance of off-street loading areas	10-1666

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Voluntary provision of additional parking facilities	10-1661
Off-street parking	
Calculation of parking space requirements for mixed-use developments	10-1626
Compact parking stalls	10-1622
Determination of required number of parking spaces for uses not specified herein	10-1627
Exemption of required parking spaces	10-1612
Existing parking facilities	10-1611
General parking provisions	10-1619
Curb and striping	10-1619(5)
Design	10-1619(1)
Landscaping and screening	10-1619(2)
Lighting	10-1619(3)
Parking spaces and driveway surfaces	10-1619(6)
Signs	10-1619(4)
Handicap parking	10-1621
Location of parking spaces	10-1617
Off-street parking dimensions	10-1623
Parking and storage of certain vehicles	10-1615
Parking in required yards	10-1618
Parking of commercial vehicles or equipment	10-1614
Parking requirements	10-1630
Parking spaces for accessory uses	10-1625
Provision for collective parking	10-1624
Schedule of shared parking calculation	10-1629
Scope of regulations	10-1610
Standards and units of measurement to determine off-street parking	10-1628
Floor area, livable or useable	10-1628(1)
Garages, driveway parking, tandem parking	10-1628(5)
Interpreting calculation of fractional parking spaces	10-1628(4)
Open assembly areas	10-1628(3)
Parking for bicycles	10-1628(6)
Places of assembly (public or private)	10-1628(2)
Submission of a site plan	10-1616
Utilization of required parking spaces	10-1620
Voluntary or required provision of additional parking facilities	10-1613
Performance standards	
Compliance	10-1779
Dust and air pollution	10-1775
Dust	10-1775(a)
Fugitive particulate matter	10-1775(b)
Electromagnetic interference	10-1776
Exterior lighting	10-1774
Definitions	10-1774(b)
District standards	10-1774(g)
Exemptions	10-1774(d)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Exterior lighting plan required	10-1774(e)
General standards	10-1774(c)
Nonconforming luminaires	10-1774(f)
Purpose and intent	10-1774(a)
General requirements	10-1771
Glare and heat	10-1773
Noise	10-1772
Odors	10-1777
Storage	10-1778
Pools	10-1471
Signs	
Administration and enforcement	10-1700
Definitions	10-1695
District permitted on-premises signs	10-1703
Downtown Design Review District	10-1705
Exempted signs; no permit	10-1697
General requirements	10-1699
Auto service stations/repair	10-1699(b)
Construction standards	10-1699(a)
Drive-through facilities	10-1699(c)
Franchise architecture	10-1699(g)
Search lights	10-1699(d)
Temporary signs	10-1699(f)
Through lots	10-1699(e)
Intent	10-1694
Landscaping requirements	10-1702
Nonconforming signs	10-1701
Off-premises signs (outdoor advertising)	10-1704
Permit and sign plan required	10-1696
Prohibited signs	10-1698
Skyline Logo District	10-1706
Conditional use permit required	10-1706(c)
Design criteria	10-1706(e)
District established	10-1706(b)
Eligible properties	10-1706(d)
Purpose	10-1706(a)
Size and location	10-1706(f)
Site plan review	
Appeals	10-1814
Authority	10-1807
Effect of approval of site plan	10-1813
Fees	10-1815
Purpose	10-1808
Scope of application	10-1809
Accessory uses	10-1809(b)
Additional parking	10-1809(c)
Principal uses	10-1809(a)
Scope of modifications authorized	10-1810
Environmental protection	10-1810(3)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
General conformance	10-1810(7)
Landscaping	10-1810(4)
Public safety	10-1810(6)
Signage	10-1810(5)
Site layout	10-1810(2)
Traffic and parking	10-1810(1)
Site plan content	10-1812
A preliminary plat of subdivision, if required	10-1812(4)
Additional information	10-1812(5)
General information	10-1812(1)
Plat of survey	10-1812(3)
Preliminary development site plan	10-1812(2)
Site plan review committee	10-1811
Special provisions applicable to specific permitted and conditional uses	
Aboveground storage and dispensing of flammable and combustible liquids	10-1503
Automobile service stations and car washes	10-1496
Bed and breakfast establishments	10-1493
Child day care	10-1492
Designated heritage preservation landmarks and districts	10-1509
Drive-through facilities	10-1495
Environmentally sensitive areas	
Slopes	10-1499
Wetlands	10-1500
Incorporated by reference	10-1500(b)
Procedures	10-1500(d)
Purpose	10-1500(a)
Scope	10-1500(c)
Setbacks	10-1500(e)
Woodlands	10-1501
Applicability	10-1501(d)
City forester review	10-1501(f)
Definitions	10-1501(b)
Exemptions	10-1501(c)
Findings and purpose	10-1501(a)
Implementation	10-1501(h)
Methods	10-1501(g)
Requirements	10-1501(e)
Essential service utility structures and facilities	10-1504
Extraction, stockpiling, and processing of minerals and materials	10-1507
Bond requirements	10-1507(f)
Compliance	10-1507(h)
Conditional uses	10-1507(b)
Exceptions	10-1507(g)
Operational standards	10-1507(d)
Purpose	10-1507(a)
Reclamation plan	10-1507(c)

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Setback requirements	10-1507(e)
Heritage preservation	10-1508
Declaration of public policy and purpose	10-1508(a)
Definitions	10-1508(b)
Filing of documents	10-1508(e)
Powers and duties of the heritage preservation commission	10-1508(c)
Recording heritage preservation sites	10-1508(f)
Violations	10-1508(d)
Home occupations	10-1491
Allowed in residential zoning districts	10-1491(2)
No special permission required	10-1491(1)
Prohibited home occupations	10-1491(3)
Indoor and outdoor firing ranges	10-1506
Outside storage of materials, commercial, and industrial districts	10-1497
Restaurants, bars, and other eating establishments, unenclosed service area or unenclosed seating area	10-1494
Special requirements for recyclable material collection	10-1505
Substantial land alteration	10-1498
Water retention areas	10-1502
Through lots	10-1466
Subdivision and development regulations (platting)	
Basic improvements required	
Approval and agreement requirement of plat	10-2244
Public utilities	10-2249
Sanitary and storm drains	10-2245
Street improvements	10-2247
Street trees	10-2248
Water supply	10-2246
Conformance to article x (land use)	
Final approval does not relieve obligation	10-2339
Data required for final plat	
General requirements	10-2215
Definitions	10-2122
Design standards	
Block standards	10-2191
Easements	10-2190
General requirements	10-2188
Lot standards	10-2192
Public sites and open spaces	10-2193
Streets	10-2189
Extension of subdivision regulations	
Exceptions	10-2379
Regulations to include unincorporated territory within two miles	10-2378
Simple lot divisions	10-2380
Fee	
Preliminary and final plat	10-2357

	Section
LAND USE AND DEVELOPMENT (Cont'd.)	
Interpretation	10-2119
Jurisdiction	10-2121
Planned unit developments (PUD)	
Application	10-2288
Procedure	
Concept plan review	10-2148
Data required for preliminary plat	10-2157
Design features	10-2157(3)
Existing conditions	10-2157(2)
Identification and description	10-2157(1)
Disagreement	10-2149
Final plat	10-2152
Lapse of preliminary approval	10-2156
Partial final plat	10-2154
Planning commission	10-2155
Preliminary plat submission	10-2150
Review and action	10-2151
Submission requirement	10-2153
Purpose	10-2120
Registered land surveys (RLS)	
Application	10-2315
Variances	
General conditions	10-2267
Zoning districts and map	10-3
Establishment of zoning districts	10-3(a)
Interpretation of district sequence	10-3(b)
Map incorporated	10-3(c)
Omitted land	10-3(d)
LANDSCAPING	
Land use and development	10-36 et seq.
See: LAND USE AND DEVELOPMENT	
Streets, sidewalks and other public places	14-148 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
LAW ENFORCEMENT	
Animals	
Dogs and cats	
Potentially dangerous and dangerous dogs	
Law enforcement; exemption	4-79
Businesses and licensing	
Specific business operations	
Pawn shops	
Police order to hold property	6-342
LIABILITY	
Land use and development	
Floodplain management	
Floodplain district	
Warning and disclaimer of liability	10-1212

	Section
LIABILITY (Cont'd.)	
Offenses	
Offenses against peace and order	
Social host liability	12-23
Streets, sidewalks and other public places	
Right-of-way management	
Indemnification and liability	14-62
LICENSES AND PERMITS	
Alcoholic beverages	3-48 et seq.
See: ALCOHOLIC BEVERAGES	
Animals	
Hobby kennel license	4-8
Zoning restrictions; accessory use license	4-7
Buildings, housing and construction	5-116 et seq.
See: BUILDINGS, HOUSING AND CONSTRUCTION	
Businesses and licensing	6-18 et seq.
See: BUSINESSES AND LICENSING	
Dwelling unit rental	7-25 et seq.
See: DWELLING UNIT RENTAL	
Environmental control	8-23 et seq.
See: ENVIRONMENTAL CONTROL	
Fire prevention and other public safety control	9-20 et seq.
See: FIRE PREVENTION AND OTHER PUBLIC SAFETY CONTROL	
Land use and development	10-1(c) et seq.
See: LAND USE AND DEVELOPMENT	
Parks and recreation	
Special events	
Permits	13-35
Streets, sidewalks and other public places	14-84 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
Taxation	
Sales and use tax	
Tax clearance; issuance of licenses	15-65
Traffic and vehicles	16-106 et seq.
See: TRAFFIC AND VEHICLES	
Utilities	
Wastewater	
Industrial wastewater discharge permit	17-68
LIGHTING, LIGHTS	
Land use and development	10-1619(3) et seq.
See: LAND USE AND DEVELOPMENT	
Utilities	
Accounts, rates, billing, and collection	
Street lighting system utility	17-225

Section

LOADING AND UNLOADING
Land use and development ..... 10-35 et seq.
See: LAND USE AND DEVELOPMENT
Traffic and vehicles
Parking
Loading zone 16-175

LOTS
Land use and development ..... 10-1061(a) et seq.
See: LAND USE AND DEVELOPMENT
Streets, sidewalks and other public places
Private use of public streets and parking lots 14-3
Traffic and vehicles
Parking
Lots and ramps 16-176

M

MAINTENANCE
Land use and development ..... 10-5(c) et seq.
See: LAND USE AND DEVELOPMENT
Streets, sidewalks and other public places ..... 14-183 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
Utilities
Water
Curb stops and service line location and maintenance 17-29

MANUFACTURED HOMES AND MANUFACTURED HOME PARKS
Land use and development ..... 10-367 et seq.
See: LAND USE AND DEVELOPMENT

MAYOR
Administration
Compensation of mayor and council members 2-4

MEETINGS
Administration
Council meetings 2-5

MINORS
Land use and development
Standard of general applicability
Special provisions applicable to specific permitted and conditional uses
Child day care 10-1492

MOBILES HOMES AND MOBILE HOME PARKS
Traffic and vehicles
Parking
Travel trailer parking 16-178

Section

N

NOISE
Animals
Dogs and cats
Excessive noise 4-39
Land use and development
Standard of general applicability
Performance standards 10-1772
Nuisances ..... 11-85 et seq.
See: NUISANCES

NONCONFORMITIES
Dwelling unit rental
Off-street parking for rental properties
Nonconforming off-street parking 7-90
Land use and development ..... 10-379 et seq.
See: LAND USE AND DEVELOPMENT

NOTICES, NOTIFICATION
Animals
Dogs and cats
Potentially dangerous and dangerous dogs
Notice of removal 4-85
Notice to property owner 4-86
Buildings, housing and construction
Construction codes
Fire code
Notices and orders 5-51
Fire prevention and other public safety control
Alarm systems
Response to notice of false alarms 9-58
Land use and development ..... 10-369 et seq.
See: LAND USE AND DEVELOPMENT
Nuisances
Method of service of notices and orders 11-8
Streets, sidewalks and other public places ..... 14-114 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

NUISANCES
Abatement
Class I nuisances 11-12
Class II nuisances 11-13
Administrative penalties 11-10
Applicability of abatement procedure 11-11
Authorization to enter 11-7
Conditions designated as Class I nuisances 11-3
Conditions or actions considered Class II nuisances 11-4
Criminal penalty 11-9
Definitions 11-2
Disclosure of responsible party 11-6
Emergency abatement procedure 11-14

	Section
NUISANCES (Cont'd.)	
Method of service of notices and orders	11-8
Prohibited acts generally	11-5
Purpose and intent	11-1
Specific nuisances	
Authority of city council to manage waste disposal and promulgate rules	11-34
Diseased trees	
Abatement of disease nuisance on private property	11-115
Abatement of disease nuisance	11-114
Disease program	11-111
Forester	11-110
Inspection and investigation	11-113
Interference prohibited	11-116
Nuisance violations	11-112
Purpose and intent	11-109
Graffiti	11-36
Health nuisances	
Food, drugs, and beverages	11-62
Waste disposal	11-63
Water	11-61
Junked motor vehicles	11-35
Noise	
Definitions	11-85
Hobby crafts, models and engines	11-89
Motor vehicles	11-87
Places of employment	11-90
Preparation of measuring site and measuring instruments	11-86
Sport vehicles	11-88
Refuse storage	11-32
Unlawful deposit of garbage, litter, and similar items	11-33
Streets, sidewalks and other public places	
Landscape management	
Vegetation maintenance	
Nuisance declared	14-185
Utilities	
Stormwater	
Public nuisance	17-134

O

OBSTRUCTIONS	
Land use and development	
Standard of general applicability	10-1463
Streets, sidewalks and other public places	
Obstructions in the public right-of-way	14-7
OFFENSES	
Code of ordinances	
Code does not affect prior offenses, penalties and rights	1-6

	Section
OFFENSES (Cont'd.)	
Offenses against peace and order	
Curfew	12-26
Disorderly house or place of public resort	12-24
Disruptive intoxication	12-22
Open containers of alcoholic beverages	12-25
Public transit regulations	12-21
Social host liability	12-23
Ordinance violations bureau	12-1
OFFICERS AND EMPLOYEES	
Administration	
Officers and administrative functions	2-1
ORDINANCES, RESOLUTIONS, ETC.	
Code of ordinances	1-1 et seq.
See: CODE OF ORDINANCES	
Offenses	
Ordinance violations bureau	12-1

P

PARKING	
Businesses and licensing	
Specific business operations	
Peddlers, solicitors and similar vendors	6-153
Dwelling unit rental	7-88 et seq.
See: DWELLING UNIT RENTAL	
Land use and development	10-35 et seq.
See: LAND USE AND DEVELOPMENT	
Streets, sidewalks and other public places	
Private use of public streets and parking lots	14-3
Traffic and vehicles	16-136 et seq.
See: TRAFFIC AND VEHICLES	
PARKS AND RECREATION	
Alcoholic beverages	13-10
Authority of director	13-4
Camping and activity prohibitions	13-12
Camping rules for Land of Memories Park	13-13
City manager may promulgate rules and regulations	13-5
Closing hours	13-14
Definitions	13-2
Ejectment	13-15
Fires	13-9
Land use and development	10-367 et seq.
See: LAND USE AND DEVELOPMENT	
Penalties	13-3
Prohibited conduct generally	13-6
Purpose; applicability; construction	13-1
Special events	
Amplified music	13-38

Section

PARKS AND RECREATION (Cont'd.)
Fees; surety bonds 13-36
Large group gatherings 13-37
Park classification 13-34
Permits 13-35
Use of bike trails restricted 13-11
Vehicle use restricted 13-7
Weapons 13-8

PAWNBROKERS
Businesses and licensing ..... 6-332 et seq.
See: BUSINESSES AND LICENSING

PEDDLERS, CANVASSERS AND SOLICITORS
Businesses and licensing ..... 6-142 et seq.
See: BUSINESSES AND LICENSING

PEST CONTROL
Land use and development
Manufactured homes
Manufactured home parks
Insect and rodent control 10-375

PETITIONS
Land use and development
Administration and enforcement
Amendments
Requirements for petitions 10-2062

PLANNING AND DEVELOPMENT
Boards, commissions, and committees
Planning commission 2-37
Land use and development ..... 10-1859 et seq.
See: LAND USE AND DEVELOPMENT

PLUMBING
Buildings, housing and construction
Permits
Plumbing permit required 5-118

POLES AND WIRES
Streets, sidewalks and other public places
Private use of poles 14-6
Right-of-way management
Standards for wireless telecommunications facilities 14-50

POLICE DEPARTMENT
Businesses and licensing
Specific business operations
Pawn shops
Police order to hold property 6-342

POLLUTION
Land use and development

	Section
POLLUTION (Cont'd.)	
Standard of general applicability	
Performance standards	
Dust and air pollution	10-1775
POWERS	
Land use and development	
Standard of general applicability	
Special provisions applicable to specific permitted and conditional uses	
Heritage preservation	
Powers and duties of the heritage preservation commission	10-1508(c)
PRINCIPAL USES	
Land use and development	
Standard of general applicability	
Adult uses	10-1540
Site plan review	
Scope of application	10-1809(a)
PROPERTY	
Administration	
Unclaimed property	2-7
Animals	
Dogs and cats	
Potentially dangerous and dangerous dogs	
Notice to property owner	4-86
Boards, commissions, and committees	
Local board of appeal and equalization (property assessment and classification)	2-36
Businesses and licensing	
Specific business operations	
Pawn shops	
Police order to hold property	6-342
Nuisances	
Specific nuisances	
Diseased trees	
Abatement of disease nuisance on private property	11-115
Streets, sidewalks and other public places	
Pedestrian corridor management	
Abandoned personal property	14-116
Traffic and vehicles	
Snowmobiles	
Private property	16-64
Public property	16-66
PURCHASES AND PURCHASING	
Administration	
Purchasing procedure	2-8

Section

Q

QUALIFICATIONS
Businesses and licensing
Specific business operations
Transportation network companies 6-182

R

RABIES CONTROL
Animals
Dogs and cats
Rabies prevention and control 4-43

RECORDS AND REPORTS
Businesses and licensing ..... 6-194 et seq.
See: BUSINESSES AND LICENSING
Land use and development ..... 10-1351(2) et seq.
See: LAND USE AND DEVELOPMENT
Streets, sidewalks and other public places
Right-of-way management
Encroachments
Agreement to be recorded 14-88
Traffic and vehicles
Dockless scooters
Data sharing and reporting 16-141

RECREATIONAL VEHICLES
Land use and development
Floodplain management
Manufactured homes and recreational vehicles
Generally 10-1326
Manufactured homes 10-1325

RECYCLING
Dwelling unit rental
Conditions of licensure
Refuse removal and recycling 7-54
Land use and development
Standard of general applicability
Special provisions applicable to specific permitted and conditional uses
Special requirements for recyclable material collection .. 10-1505

REGISTRATION
Animals
Dogs and cats
Registration required 4-37
Businesses and licensing
Specific business operations
Peddlers, solicitors and similar vendors
Registration permit required for vendors 6-146

Section

REGISTRATION (Cont'd.)
Streets, sidewalks and other public places
Right-of-way management..... 14-46

RENTALS
Dwelling unit rental ..... 7-1 et seq.
See: DWELLING UNIT RENTAL

RESTAURANTS
Land use and development
Standard of general applicability
Special provisions applicable to specific permitted and conditional uses
Restaurants, bars, and other eating establishments, unenclosed service area or unenclosed seating area.. 10-1494

RIGHT-OF-WAYS
Streets, sidewalks and other public places..... 14-7 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

RODENT CONTROL
Land use and development
Manufactured homes
Manufactured home parks
Insect and rodent control 10-375

S

SAFETY
Buildings, housing and construction
Public safety radio transmissions
Public safety 800 MHz radio frequency coverage..... 5-150
Businesses and licensing
Specific business operations
Pawn shops
Daily reports to department of public safety 6-338
Fire prevention and other public safety control..... 9-19 et seq.
See: FIRE PREVENTION AND OTHER PUBLIC SAFETY CONTROL
Land use and development
Standard of general applicability
Site plan review
Scope of modifications authorized
Public safety ..... 10-1810(6)

SALES
Alcoholic beverages ..... 3-49 et seq.
See: ALCOHOLIC BEVERAGES
Businesses and licensing
Specific business operations
Tobacco
Prohibited sales 6-108

Section

SALES (Cont'd.)
Taxation ..... 15-1 et seq.
See: TAXATION
Utilities
Service connections and equipment
Application for service; connection and sale of service 17-179

SETBACKS
Businesses and licensing
Specific business operations
Peddlers, solicitors and similar vendors 6-152
Land use and development ..... 10-97 et seq.
See: LAND USE AND DEVELOPMENT
Streets, sidewalks and other public places
Curb setback 14-10

SIGNS AND BILLBOARDS
Land use and development ..... 10-1696 et seq.
See: LAND USE AND DEVELOPMENT

SMOKING
Businesses and licensing ..... 6-227 et seq.
See: BUSINESSES AND LICENSING

SNOW AND ICE
Streets, sidewalks and other public places
Ice and snow on public sidewalks 14-2
Traffic and vehicles ..... 16-63 et seq.
See: TRAFFIC AND VEHICLES

SNOWMOBILES
Traffic and vehicles ..... 16-63 et seq.
See: TRAFFIC AND VEHICLES

SOIL EROSION AND SEDIMENTATION CONTROL
Environmental control ..... 8-19 et seq.
See: ENVIRONMENTAL CONTROL
Land use and development
Manufactured homes
Manufactured home parks
Environmental, open spaces, and access requirements
Soil and ground cover requirements ..... 10-370(b)
Shoreland management
Planned unit developments (PUDS)
Design criteria
Erosion control and stormwater management ..... 10-1120(4)

SOLID WASTE
Animals
Dogs and cats
Waste 4-42
Nuisances ..... 11-33 et seq.
See: NUISANCES

	Section
SOLID WASTE (Cont'd.)	
Utilities	17-154 et seq.
See: UTILITIES	
STORAGE	
Buildings, housing and construction	5-47 et seq.
See: BUILDINGS, HOUSING AND CONSTRUCTION	
Fire prevention and other public safety control	
Explosives	
Use or storage of explosives	9-24
Land use and development	10-376 et seq.
See: LAND USE AND DEVELOPMENT	
Nuisances	
Specific nuisances	
Refuse storage	11-32
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
Animals	
Restraining animals on roadway portion of boulevards and sidewalks	4-6
Construction of roadway, sidewalk and curb	14-8
Curb setback	14-10
Definitions	14-1
Dwelling unit rental	7-88 et seq.
See: DWELLING UNIT RENTAL	
Ice and snow on public sidewalks	14-2
Land use and development	10-35 et seq.
See: LAND USE AND DEVELOPMENT	
Landscape management	
Authorization to plant, remove and trim trees	14-151
Boulevards	14-150
Building operations	14-155
City responsibility	14-149
Definitions	14-148
Interference unlawful	14-156
Notice of noncompliance	14-157
Tree care	14-153
Tree protection	14-152
Trimming and corner clearance	14-154
Vegetation maintenance	
Appeal	14-189
Approval, denial and revocation of natural landscape permits	14-188
Definitions	14-184
Exemptions and conditions for exemptions	14-186
Findings and purpose	14-183
Natural landscape permits	14-187
Notice of noncompliance	14-190
Nuisance declared	14-185
Obstructions in the public right-of-way	14-7

	Section
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES (Cont'd.)	
Pedestrian corridor management	
Abandoned personal property	14-116
Definitions	14-110
Enforcement	14-115
Exemptions from section 14-111	14-112
Findings and purpose	14-109
Hours of operation	14-113
Penalties	14-117
Posted notice	14-114
Prohibited acts	14-111
Private use of poles	14-6
Private use of public streets and parking lots	14-3
Right-of-way management	
Abandoned and unusable equipment	14-61
Appeal	14-56
Definitions	14-44
Denial of permit	14-53
Diligence in performing work	14-48
Emergency work	14-54
Encroachments	
Agreement to be recorded	14-88
Application fee	14-86
Application	14-85
Investigation	14-90
License agreement	14-87
License required	14-84
Standard of issuance	14-89
Fees	14-45
Findings and purpose	14-43
Franchise holders	14-63
Indemnification and liability	14-62
Location of facilities and equipment	14-58
Mapping	14-57
Permit limitations	14-52
Permit required; bond; exceptions	14-47
Registration	14-46
Relocation	14-59
Repair and restoration	14-51
Revocation of permits	14-55
Right-of-way vacation	14-60
Standards during construction or installation	14-49
Standards for wireless telecommunications facilities	14-50
Sewer and water lateral installation	14-11
Sidewalk painting	14-4
Sidewalk, bicycle and trail systems established	14-9
Traffic and vehicles	16-67 et seq.
See: TRAFFIC AND VEHICLES	

Section

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES (Cont'd.)
Utilities
Accounts, rates, billing, and collection
Street lighting system utility 17-225
Vacation of streets 14-12
Vehicular access 14-5

SUBDIVISIONS
Land use and development ..... 10-755 et seq.
See: LAND USE AND DEVELOPMENT

T

TAXATION
Businesses and licensing ..... 6-218 et seq.
See: BUSINESSES AND LICENSING
Excise tax on the sale of motor vehicles 15-1
Food, beverage and entertainment tax
Authority 15-93
Collection of tax 15-95
Definitions 15-94
Lodging tax
Advertising no tax 15-24
Agreement with the commissioner 15-26
Authority and purpose 15-21
Definitions 15-22
Local lodging tax imposed; amount of tax; coordination with state sales and use tax laws and rules 15-23
Use of proceeds 15-25
Sales and use tax
Agent of retailer 15-62
Agreement with the commissioner 15-67
Authority 15-56
Collection and enforcement 15-64
Collection of sales tax at time of sale 15-61
Definitions 15-57
Deposit of revenues; costs of administration; termination of tax 15-66
Effective date 15-63
Exemption certificate 15-59
Presumption of purpose of sale 15-60
Tax clearance; issuance of licenses 15-65
Tax imposed; amount of tax; coordination with state law and rules 15-58

TAXICABS
Businesses and licensing ..... 6-218 et seq.
See: BUSINESSES AND LICENSING

TELECOMMUNICATIONS
Streets, sidewalks and other public places

	Section
TELECOMMUNICATIONS (Cont'd.)	
Right-of-way management	
Standards for wireless telecommunications facilities	14-50
TOBACCO AND TOBACCO PRODUCTS	
Businesses and licensing	6-104 et seq.
See: BUSINESSES AND LICENSING	
TOWERS AND ANTENNAS	
Land use and development	
Standard of general applicability	
Accessory uses and structures	
Satellite dishes and antennas	10-1462(6)
Landscaping and screening	
Antennas and support structures	10-1744
TRAFFIC AND VEHICLES	
Backing	16-6
Bicycles and play vehicles	
Bicycle lanes	16-35
Bicycles on sidewalk	16-36
Skateboards	16-38
Skates	16-37
Businesses and licensing	6-185 et seq.
See: BUSINESSES AND LICENSING	
City manager's authority to regulate traffic	16-3
Definitions	16-1
Dockless scooters	
Change in operating area, limited speed, and restrictions of use	16-138
Data sharing and reporting	16-141
Definitions	16-132
Impounding authorized	16-137
Insurance/indemnification requirements	16-140
Operating regulations, parking and deployment	16-136
Permit fees	16-135
Permit procedure	16-133
Standards and specifications	16-134
Weather-related expectations	16-139
Driving on sidewalk	16-4
Exhibition driving	16-8
Land use and development	10-1810(1) et seq.
See: LAND USE AND DEVELOPMENT	
Nuisances	11-35 et seq.
See: NUISANCES	
Parking	
Angle parking	16-168
Emergency parking	16-171
General restrictions	16-166
Loading zone	16-175

	Section
TRAFFIC AND VEHICLES (Cont'd.)	
Lots and ramps	16-176
Moving or impounding vehicles	16-181
Parallel parking	16-167
Parking meters	16-177
Parking on street without curb	16-169
Parking on unmetered street	16-170
Parking privileges for persons with disabilities	16-179
Penalty	16-182
Seasonal no parking	16-172
Special service district established	16-180
Temporary restricted parking	16-173
Travel trailer parking	16-178
Truck parking	16-174
Parks and recreation	
Vehicle use restricted	13-7
Snowmobiles	
Council prohibition	16-68
Direct crossings	16-69
Equipment	16-72
Intersections	16-70
Operating prohibitions	16-71
Private property	16-64
Public property	16-66
Public street	16-67
Scope of application	16-63
Sidewalks and boulevards	16-65
Taxation	
Excise tax on the sale of motor vehicles	15-1
Traffic control devices	16-2
U-turns	16-5
Utility-terrain vehicles and mini-trucks	
Conditions of operation	16-107
Definitions	16-104
Operation	16-105
Permits	16-106
Purpose and intent	16-103
Suspension, revocation or denial of permit	16-108
Violation; penalty	16-109
Weight restrictions	16-7
TREES AND SHRUBBERY	
Land use and development	
Subdivision and development regulations (platting)	
Basic improvements required	
Street trees	10-2248
Nuisances	11-109 et seq.
See: NUISANCES	

Section

TREES AND SHRUBBERY (Cont'd.)
Streets, sidewalks and other public places
Landscape management
Authorization to plant, remove and trim trees 14-151

TRUCKS AND TRAILERS
Traffic and vehicles ..... 16-103 et seq.
See: TRAFFIC AND VEHICLES

U

UTILITIES
Accounts, rates, billing, and collection
Certification cycles 17-220
Change in ownership 17-228
Customer statements for utility charges 17-227
Delinquent accounts
Other remedies 17-253
Regulations on past due collection and nonpayment of services 17-252
Dishonored check fee 17-226
Established by council 17-219
Refuse collection charges 17-223
Stormwater drainage utility 17-224
Street lighting system utility 17-225
Temporary service interruption at owner's request 17-229
Wastewater rates and fees 17-222
Water rates and fees 17-221
Definitions 17-1
Franchise agreements 17-2
Land use and development ..... 10-1296 et seq.
See: LAND USE AND DEVELOPMENT
Ownership of municipal utilities 17-3
Prohibited acts 17-5
Right of entry 17-4
Service connections and equipment
Abandoned service 17-183
Application for service; connection and sale of service 17-179
Connection charge 17-182
Connection standards 17-180
Financial responsibility of service lines 17-187
Meters 17-188
Remote water meter reading device 17-189
Service connection prior to paving and repaving 17-184
Services to consumers outside the city 17-181
Termination or suspension of service 17-190
Water service line construction 17-185
Water service pipe and fittings 17-186
Solid waste
Rules and regulations 17-155
Service established 17-154

	Section
UTILITIES (Cont'd.)	
Stormwater	
Installation of drainage connections	17-131
Municipal separate stormwater system or MS4	17-135
Noncompliance	17-132
Public nuisance	17-134
Sump pump discharge connection requirements	17-133
Wastewater	
Accidental and slug discharges	17-67
Collection system rules and regulations	17-57
Confidential information	17-70
Drain elevation	17-60
Enforcement	
Collection enforcement	17-101
Grease, oil and sand interceptors	17-61
Industrial wastewater discharge permit	17-68
Installation of sanitary facilities	17-63
Limitations on wastewater strength	17-66
Pre-treatment requirement	17-58
Pretreatment compliance with standards	17-69
Prohibitive discharges	17-71
Sanitary sewer service line construction	17-64
Standard Methods to be used	17-62
Termination of service	17-59
Unlawful acts	17-65
Water	
Curb stops and service line location and maintenance	17-29
Fire suppression system	17-31
Private wells	17-30
Prohibited access and use	17-32
Water conservation	17-34
Water during construction	17-33

V

VARIANCES	
Land use and development	10-903 et seq.
See: LAND USE AND DEVELOPMENT	
VEGETATION	
Land use and development	
Shoreland management	
Shoreland overlay district	
Shoreland alterations	
Vegetation alterations	10-1063(1)
Streets, sidewalks and other public places	14-183 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
VENDORS	
Businesses and licensing	6-142 et seq.
See: BUSINESSES AND LICENSING	

Section

W

WATER AND SEWERS
Land use and development ..... 10-371 et seq.
See: LAND USE AND DEVELOPMENT
Nuisances
Specific nuisances
Health nuisances
Water 11-61
Streets, sidewalks and other public places
Sewer and water lateral installation 14-11
Utilities ..... 17-29 et seq.
See: UTILITIES

WEIGHTS AND MEASURES
Land use and development
Standard of general applicability
Off-street parking
Standards and units of measurement to determine off-street parking 10-1628
Nuisances
Specific nuisances
Noise
Preparation of measuring site and measuring instruments 11-86
Traffic and vehicles
Weight restrictions 16-7

Y

YARDS AND OPEN SPACES
Land use and development ..... 10-97 et seq.
See: LAND USE AND DEVELOPMENT

Z

ZONING
Animals
Zoning restrictions; accessory use license 4-7
Land use and development ..... 10-3 et seq.
See: LAND USE AND DEVELOPMENT