



DATE: November 3, 2021

CONSENT

AGENDA ITEM: Recodification of the City's Municipal Code

SUBMITTED BY: Julie Johnson, City Clerk

BACKGROUND:

ISSUE BEFORE COUNCIL:

Should the Council approve recodification?

PROPOSAL: In 2020 city staff began the process of recodification of the City's municipal code. The City entered into a contract with Municode for the purposes of review and reorganization of the City's ordinances along with reintegrating the City's zoning code into the main document. The purpose of this project is to create a single document that is more user friendly and up to date with current Minnesota Statutes. Once approved, Municode will host the online version of the code that will be available on the City's website and can be updated and maintained by City staff going forward.

FISCAL IMPACT:

Funds were budgeted for this project in 2020

OPTION:

- 1) Approve Ordinance 08-253
- 2) Amend and then approve Ordinance 08-253
- 3) Do not approve Ordinance 08-253

RECOMMENDATION:

“Motion to approve Ordinance 08-253 Adopting Recodification of the Lake Elmo City Code.”

ATTACHMENTS:

- Ordinance 08-253
- Lake Elmo Municipal Code

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 08-253

**AN ORDINANCE ADOPTING THE RECODIFICATION OF THE LAKE ELMO
CITY CODE**

Section 1. Authority. Minnesota Statutes Sections 415.02, 415.021, and 599.13 (collectively the “Act”) authorize the City of Lake Elmo (the “City”) to adopt and codify ordinances. The Act also provides that any ordinance included in a new city code, but not previously published, is sufficiently published if a substantial quantity of the code is printed for general distribution to the public.

Section 2. Background. At the direction of the City Council, City staff and Municode undertook an extensive process to review and update the Lake Elmo City Code with the understanding that once all the amendments were finalized, they would be incorporated into a new code book, which would be reformatted and readopted as a single unified Lake Elmo City Code. The purpose of the recodification is not to implement or incorporate substantive revisions to local laws and policies, but rather to remove outdated and unnecessary code language, reformat the code, update staff titles, and modernize the code to conform to current City practices and state law, as necessary. The updated code has been prepared and it is the intent of this Ordinance to adopt the recodification, which is entitled The City of Lake Elmo Municipal Code (the “Code”). A complete copy of the Code was presented to the City Council and the public together with this Ordinance and is further on file with the City Clerk and available on the City’s website.

Section 3. Adoption. Pursuant to the City’s authority contained in the Act, the Code is hereby adopted.

Section 4. Copies. The City Clerk is authorized and directed to prepare sufficient copies of the Code for use by the City Council and City staff and for general distribution to the public in accordance with City policies regarding the distribution and availability of City documents. The City Clerk shall also keep an official copy of the Code in the office of the City Clerk and ensure that a copy is available through the City’s website.

Section 5. Effect. The Code shall be controlling and shall supersede and replace previously adopted ordinances pertaining to the same subjects contained within the Code, which are hereby repealed as of the effective date of this Ordinance. Such repeal shall not affect: (i) any offense committed or penalty incurred under the previous code; (ii) any rights vested prior to the effective date of this Ordinance; or (iii) the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication

of land to public use; or vacating or setting the boundaries of streets or other public places. Furthermore, nothing in this Ordinance or the Code is to be construed to modify, abrogate or abridge: (i) the rights, duties, liabilities, privileges or immunities of the City; (ii) the qualifications or terms of office of City officers as they existed prior to adoption; or (iii) any special ordinance or franchise not embodied in the Code. The Code is declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by Minnesota Statutes by the courts of the State of Minnesota.

Section 6. General Penalty. Unless another penalty is expressly provided in the Code, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine up to the maximum permitted or required by law. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided herein, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City Council may pursue other remedies, including without limitation, abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 7. Amendments. Additions or amendments to the Code when passed in such form as to indicate the intention of the City Council to make the same part of the Code shall be deemed to be incorporated in the Code, so that reference to the Lake Elmo Municipal Code includes such additions and amendments.

Section 8. Corrections. Given the size of this project and refinements made as part of the Code, the City Council recognizes the Code may contain certain errors, such as cross-references to changed subsections, typographical errors, and other non-substantive matters that may be discovered once the Code is placed in use. The City Council hereby authorizes the City Clerk to work with the City Attorney and Municode, as necessary, to make any non-substantive corrections to the Code as may be needed upon discovery. Such corrected provisions shall be incorporated in and made part of the official Code without further action by the City Council.

Section 9. Summary Publication. The City Council determines that publication of the title and a summary of this Ordinance would clearly inform the public of its intent and effect, and so City staff shall have the following summary printed in the official City newspaper in lieu of the complete ordinance:

On November 3, 2021, the City Council of the City of Lake Elmo adopted Ordinance No. 08-253 which adopted a recodification of the City's ordinances. City staff and Municode undertook an extensive process to review and update the Lake Elmo City Code so that the City's ordinances could be incorporated into a new code book, which was reformatted as a single unified Lake Elmo Municipal Code. The purpose of the recodification was not to implement substantive revisions to local laws and policies, but rather to remove outdated and unnecessary code language, reformat the code, update staff titles, and modernize the

code to conform to current City practices and state law, as necessary. Prior to adoption, a complete copy of the new City of Lake Elmo Municipal Code was presented to the City Council and the public and was further on file with the City Clerk and made available for viewing on the City's website.

Printed copies of the new Lake Elmo Municipal Code, as adopted by Ordinance No. 08-253, are available for inspection and general distribution to the public during regular business hours at City Hall. It can also be viewed online through the City's website: www.lakeelmo.org.

Section 10. Effective Date. This Ordinance and the Code, as presented to the City Council and the public and made available for inspection in accordance with law, shall take effect and be in force after its passage and publication. Ordinances adopted after the Effective Date that amend or refer to the Code shall be construed as if they amend or refer to like provisions of said Code.

Section 11. Adoption Date. This Ordinance 08-253 was adopted on this 3rd day of November, 2021, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Charles Cadenhead, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-253 was published on the ____ day of _____, 2021



City of Lake Elmo

Washington County, Minnesota

Municipal Code

Compiled: Monday, September 20, 2021

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1.04.010 Title Of Code

- (a) All ordinances of a permanent and general nature of the City of Lake Elmo, Minnesota, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the "Code of Ordinances of the City of Lake Elmo, Minnesota," for which designation "this Code" or "Lake Elmo Code" may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the Code.
- (b) Sections may be referred to and cited by the abbreviation "LEC" followed by the number, such as "LEC 1.04.010."

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

(Code 2007, § 10.01)

1.04.020 Application To Future Ordinances

All provisions of this title shall apply not only to this Code in its entirety, but also to ordinances hereafter adopted which amend or supplement this Code unless otherwise specifically provided.

(Code 2007, § 10.02)

1.04.030 Conflicting Provisions

Where any provision of this Code imposes greater restrictions upon the subject matter than the general provision imposed by this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

1.04.040 Delegation Of Authority

Whenever a provision appears requiring the head of a department or some other city officer to do some act or make certain inspections, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

1.04.050 Gender, Number And Technical Expressions; Illustrations, Tables And Other Graphic Representations; Joint Authority; Minimum Requirements

- (a) *Gender, number and technical expressions.* Words importing the masculine gender may be applied to females. Words importing the singular number may extend and be applied to several persons or things, and words importing the plural may include the singular. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- (b) *Illustrations, tables and other graphic representations.* In case of any difference of meaning or implication between the text of any section of this Code and any caption, illustration, or table, the text shall control. No caption, illustration, table or other graphic representation shall be construed to limit the scope or intent of the text of any section of this Code.
- (c) *Joint authority.* All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons

or officers.

- (d) *Minimum requirements.* In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

1.04.060 Catchlines And Other Headings

The catchlines of the several subsections and sections, and the headings of titles, chapters, articles and divisions of this Code are intended as mere catchwords to indicate the contents of the subsection, section, chapter, article or division, and shall not be deemed or taken to be a substantive part of such subsections, sections, chapters, articles or divisions, nor, unless expressly so provided, shall they be so deemed when any of such subsections, sections, chapters, articles or divisions, including the catchlines or other headings, are amended or reenacted.

(Code 2007, § 10.03)

1.04.070 References And Notes

Cross references, state law references, editor's notes and history notes are by way of explanation only and shall not be deemed a part of the text of any section.

1.04.080 Severability

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

(Code 2007, § 10.04)

1.04.090 Reference To Other Sections

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

(Code 2007, § 10.05)

1.04.100 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.

(Code 2007, § 10.06)

1.04.110 Errors And Omissions

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

(Code 2007, § 10.07)

1.04.120 Official Time

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

(Code 2007, § 10.08)

1.04.130 Reasonable Time

- (a) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.
- (b) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

(Code 2007, § 10.09)

1.04.140 Ordinances Repealed

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

(Code 2007, § 10.10)

1.04.150 Ordinances Unaffected

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

(Code 2007, § 10.11)

1.04.160 Effective Date Of Ordinances

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

(Code 2007, § 10.12)

1.04.170 Repeal Or Modification Of Ordinance

- (a) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.
- (b) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.
- (c) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

(Code 2007, § 10.13)

1.04.180 Ordinances Which Amend Or Supplement Code

- (a) If the city council shall desire to amend any existing chapter or section of this Code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.
- (b) Any ordinance which is proposed to add to the existing Code a new chapter or section shall indicate, with reference to the arrangement of this Code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

(Code 2007, § 10.14)

1.04.190 Preservation Of Penalties, Offenses, Rights, And Liabilities

- (a) All offenses committed under laws in force prior to the effective date of this Code shall be prosecuted and remain punishable as provided by those laws.
- (b) This Code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this Code. The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this Code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this Code had not been enacted.

(Code 2007, § 10.15)

1.04.200 Copies Of Code

The official copy of this Code shall be kept in the office of the city clerk for public inspection. The city clerk shall provide a copy for sale for a reasonable charge.

(Code 2007, § 10.16)

1.04.210 Adoption Of Statutes And Rules By Reference

It is the intention of the city council that, when adopting this Code, all future amendments to any state or federal rules and statutes adopted by reference in this Code or referenced in this Code are hereby adopted by reference or referenced as if they had been in existence at the time this Code was adopted, unless there is clear intention expressed in the Code to the contrary.

(Code 2007, § 10.17)

1.04.220 Statutory Rules Adopted By Reference

The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in M.S.A. ch. 645, as it may be amended from time to time, are adopted by reference and made a part of this Code. As so adopted, references in that M.S.A. ch. 645 to laws and statutes mean provisions of the Code and references to the legislature mean the city council.

(Code 1997, § 100.03; Code 2007, § 10.18)

1.04.230 Penalties

- (a) *Prohibited acts.*

- (1) Any person must not do any of the following:
 - a. Violate, fail to comply with, or assist, authorize, or permit the violation of a provision of this Code;
 - b. Violate, fail to comply with, or assist, authorize, or permit the violation of the terms and conditions of a city approval, including permits and licenses, required or granted under this Code; or
 - c. Knowingly make or submit a false statement, document, or material omission in connection with an application or procedure required by this Code.
- (2) No section or part of this Code designating the duties of an official, employee, or appointee of the city may be construed to make that person liable for the penalties provided herein.

(b) *Penalties.*

- (1) A person who violated subsection (a) of this section is guilty of a misdemeanor and upon conviction will be punished in accordance with state law, provided that, if a different punishment is stated in this Code, that provision governs the punishment for the violation.
- (2) Designation as a petty misdemeanor means that upon conviction the sentence will be in accordance with state law. If not designated as a petty misdemeanor, a violation is a misdemeanor as set forth in subsection (b) (1) of this section.
- (3) Each calendar day that subsection (a) of this section is violated constitutes a separate offense.
- (4) A violation of subsection (a) of this section constitutes sufficient grounds for denial of an application required by this Code that is related to the violation.
- (5) Action prohibited by subsection (a) of this section may, at the option of the city, void a city approval that is related to the violation.
- (6) The city attorney may institute a legal proceeding in the name of the city to prevent, restrain, remedy, or abate a violation of subsection (a) of this section.
- (7) Nothing in this section prevents the city from taking other action permitted by law, and the penalties and remedies provided here and under other law are cumulative.

(Code 2007, § 10.99; Ord. No. 08-028, 07-20-2010; Ord. No. 08-141, 07-5-2016)

CHAPTER 1.08 DEFINITIONS

1.08.010 Terms Defined

1.08.010 Terms Defined

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

Accessory building means a subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building.

Accessory structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Accessory use means a use incidental or subordinate to the principal use of the same land.

Adjacent lands means lands within 300 feet of the normal high water mark or any identified wetland.

Administration (wastewater service charge) means those costs attributable to monitoring a reporting card maintenance record system of the wastewater treatment works.

Administrator means the administrator of the city and the duties imposed upon the administrator in LEC 32.25 et seq., with respect to registration through the administrator's duly designated agents subject to the administrator's supervision, direction, and control.

Administrator, city clerk, means the city clerk/administrator.

Administrator, zoning, means the city zoning administrator.

Agricultural building means a structure on agricultural land, as defined below in the definition for the term "farm, rural," of this section, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown by the owner, lessee, or sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

Agricultural entertainment business means an agricultural sales business that combines the elements and characteristics of agriculture and tourism, which is not necessarily located in an existing building. Examples of agricultural entertainment include: corn mazes, hay rides, sleigh rides, petting farms, on-farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities

which are related to agriculture.

Agricultural museums means the keeping, restoration, maintenance and display of the structures, tools and equipment utilized in the production of agricultural products. Restoration and maintenance activity shall be limited to those structures, tools, and equipment permanently kept on display on the premises. Retail or wholesale sales of any product are specifically excluded.

Agricultural sales business means the retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products. The operation may be indoors or outdoors, include pick-your-own or cut-your-own opportunities, and may involve the ancillary sale of items considered accessory to the agricultural products being sold or accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and homemade handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25 percent of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory items. No activities other than the sale of goods as outlined above shall be allowed as part of the agricultural sales business.

Agriculture means the production of livestock, dairy animals, dairy products, fur-bearing animals, horticultural and floricultural nursery stock, fruits of all kinds, vegetables, forage, grains, bees, and apiary products.

Alarm site means a single premises or location, or a multi-tenant location, served by an alarm system or systems.

Alarm system means any mechanical, electrical, or radio-controlled device or system which is designed to emit, transmit, or relay a signal or message and which, when activated, is intended to summon, or that would reasonably be expected to summon, police, fire, or emergency medical services. The term "alarm system" includes intrusion alarms, but does not include:

- (a) An alarm installed on a vehicle, unless the vehicle is permanently located at a site; or
- (b) An alarm designed to alert only the inhabitants of a premises, and which does not constitute a local alarm.

All-terrain vehicle means a motorized flotation-tired vehicle of not less than three low-pressure tires, but not more than six tires, that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 800 pounds.

Alley means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties where the principal frontage is on a street.

Animal control officer means the person contracted by the city that is responsible for

animal control operations within its corporate limits.

Animals, domestic farm, means cattle, hogs, horses, bees, turkeys, geese, sheep, goats, chickens, and other animals commonly kept for commercial food-producing purposes.

Animals, domestic pets, means dogs, cats, birds, and similar animals, commonly kept in a residence.

Animation means the movement or the optical illusion of movement of any part of a sign, sign structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a street sign.

Antenna means a device placed outdoors on a building or structure and used to transmit and/or receive radio or electromagnetic waves, excluding: satellite dishes, ten feet or shorter whip antennas one inch or less in diameter, and television antennas having a total length of not more than six feet which are located on a dwelling or other permitted building.

Apartment means a room or suite of rooms with cooking facilities designed to be occupied as a residence by a single-family.

Applicant means a person that makes an application to the city on an application form provided by the city administrator.

At-large. A dog is considered to be at-large:

(a) When a dog is off the premises of the owner and not:

- (1) Under the control of the owner or a member of owner's immediate family by a leash, not exceeding six feet in length; or
- (2) At "heel" beside a competent person having custody of the dog and obedient to that person's commands.

(b) When the dog commits damage to the person or property of anyone other than the owner or creates a nuisance upon the property of one other than the owner, except in the defense of the owner, owner's family, or owner's property, unless confined in the process of being transported to or from the premises of the owner.

Attorney means the city attorney.

Auto or motor vehicle reduction yard means a lot or yard where one or more unlicensed motor vehicles, or the remains of an unlicensed motor vehicle, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment.

Automobile repair means the replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission, or differential, incidental body and fender work, minor painting, and upholstering service when the service is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross vehicle weight.

Automobile service station (gas station) means a place where any motor fuel, lubricating oil, or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing and oiling and sale of automobile accessories on the premises. This definition also includes minor repairs and replacement of parts and motor services to passenger vehicles and small trucks not exceeding 1.5-ton capacity. This definition shall not include major repair, rebuilding, or conditioning of engines, motor vehicles, or trailers; collision service, including body, frame, or fender straightening or repair; overhaul, painting or paint job, vehicle steam cleaning, or automatic car or vehicle washing devices.

Automobile service uses means those uses catering to the traveling public. Automobile service uses include auto and truck laundry, service station, repair garage, public garage, motel, hotel, seasonal produce sales, motor vehicle sales, trailer sales and rental, boat sales, rental services, and restaurants. The sale of groceries and dry goods is also included in this definition when the sale of the goods is an accessory use to the above automobile service uses.

Awning means a roof-like cover, including, but not limited to, fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door or the like.

BOD (biochemical oxygen demand) or BOD5 means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius expressed in milligrams per liter. Laboratory procedures shall be in accordance with the latest edition of Standard Methods for the Examination of Water and Waste Water.

Basement means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Beauty salon means any commercial establishment, residence, or other establishment, place, or event wherein cosmetology, including hair care, nail care, and skin care, is offered or practiced on a regular basis for compensation.

Bedroom means any room within a dwelling unit which, by virtue of its design and location, might reasonably be used as a sleeping room. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Beer or 3.2 percent malt liquor means any fermented, potable malt beverage containing

not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Block means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

Bluff means a topographic feature such as a hill, cliff, or embankment having the following characteristics; however, an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff:

- (a) Part or all of the feature is in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the water body;
- (c) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
- (d) The slope must drain toward the water body.

Bluff impact zone means a bluff and land located within 20 feet from the top of a bluff.

Boardinghouse means a building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three or more unrelated persons, but not to exceed eight persons.

Boathouse means a structure designed and used solely for the storage of boats and boating equipment.

Bona fide club means a club organized for social or business purposes, for intellectual improvement, or for the promotion of sports, where the serving of 3.2 percent malt liquor is incidental to and not a major purpose of the club.

Boulevard means the portion of the street right-of-way between the curb line and the property line.

Buildable land area means the gross land area less the unbuildable land area that includes hydric and restrictive soils, land with slopes over 25 percent, wetlands, areas

that cannot accommodate septic systems, and land that has been acquired for municipal purposes.

Building means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or movable property of any kind. When any portion of a building is completely separated from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.

Building code means the state building code.

Building footprint means the outline of the total area covered by a building's perimeter at the ground level.

Building height means the vertical distance between the average of the ground level elevations to the top of a flat roof, the deck line of a mansard roof, or the midpoint on a pitched roof which is between the highest point (peak of building) and lowest point (bottom of the truss at the top plate of the wall) on the roof.

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.

Building official means the officer or other designated authority, certified by the state, charged with the administration and enforcement of the state building code, or the building officer's duly authorized representative.

Building setback means the minimum horizontal distance between one building and the lot line.

Building setback line means a line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluff line, or a high water mark or line, behind which buildings or structures must be placed.

Building sewer means the part of the drainage system which extends from the building drain to the point of connection to either a public sewer, a septic tank, a pumping chamber, or an individual sewage treatment system, for the purpose of conveying wastewater. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Business means any occupation, employment, or enterprise where merchandise is exhibited or sold, or where services are offered for compensation.

Business of refuse collection means operating a refuse collection service for hire.

Canopy means a detachable, roof-like cover, supported from the ground or deck, floor or walls of a structure, for protection from the sun or weather.

Capacity (sewer systems) means the internal liquid volume of a sewage tank below the outlet level. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Carport means an automobile shelter having one or more sides open.

Cellar means the portion of the building having more than one-half of the clear floor-to-ceiling height below the average grade of the adjoining ground.

Cesspool means an underground pit into which raw household sewage or other untreated liquid waste is discharged and from which the liquid is allowed to seep into the surrounding soil. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Channel means a natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, including, but not limited to, streams, river, creeks, ditches, drainageways, canals, conduits, culverts, waterways, gullies, ravines, or washes; and including any area adjacent to the watercourse, which is subject to inundation by reason of overflow or floodwaters.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Cigarette vending machine means any automatic vending machine used for the sale of cigarettes and matches, and controlled by the insertion of coins; it shall not include machines or devices used solely for the vending of service, food, or confections.

City means the area within the corporate boundaries of the city as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term "city" may also be used to refer to the city council and its authorized representatives.

City's trade area means the area located within the city limits and the area located within the limits of all Minnesota cities and townships which are contiguous to the city.

Civil defense means the preparations for and the carrying out of all emergency functions.

Civil defense emergency means an emergency declared by the governor under state statutes, or an emergency proclaimed by the mayor.

Civil defense forces means any personnel employed by the city and any other volunteer or paid member of the local civil defense agency engaged in carrying on civil defense functions.

Clean Water Act means the federal Water Pollution Control Act (33 USC 1251 et seq.), and any subsequent amendments thereto.

Closure statement means a written statement prepared by the park owner which includes the following information:

- (a) A statement that the manufactured home park, or a portion of the manufactured home park, is closing and the anticipated date of closing;
- (b) A statement addressing the availability, location, and potential cost of other manufactured home park lot sites located within a 25-mile radius of the manufactured home park that is being closed; and
- (c) A statement of the probable relocation costs within a reasonable range which will be incurred by the park residents in order to relocate the park residents' manufactured home to a manufactured home park within a 25-mile radius.

Club means any corporation duly organized under the laws of the state for civic, fraternal, social, or business purposes, or for intellectual improvement or for the promotion of sports or a congressionally chartered veterans' organization if it meets the following conditions:

- (a) It shall have more than 50 members.
- (b) For more than a year, it shall have owned, hired, or leased a building or space in a building of the extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members.
- (c) Its affairs and management shall be conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.
- (d) None of its members, officers, agents, or employees shall be paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of the reasonable salary or wages as may be fixed and voted each year by the governing body of the club.

Club or lodge means a non-profit association or persons who are bona fide members paying annual dues.

Code, this Code, or this Code of Ordinances means this Code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

Collection point means any residence, place of business, or other place in the city with respect to which a "hauler," as defined in this section, has been hired for the purpose of collecting and transporting solid waste.

Combined sewer means a sewer intended to serve as a sanitary sewer and storm sewer.

Commercial lumbering or harvesting of forest products means any removal of trees that may result in the commercial sale of any wood or product of the tree.

Commercial speech means speech or graphics advertising a business, profession, commodity, service or entertainment.

Commercial use means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Commercial user (sewer systems) means any place of business which discharges sanitary waste as distinct from industrial wastewater.

Commissioner (intoxicating liquor) means the commissioner of public safety for the state.

Commissioner (shoreland) means the commissioner of the state department of natural resources.

Community sewage treatment system means a sewage treatment and collection system which collects sewage from two or more residences or other establishments, consisting of collector lines, pumps, sewage tanks, and soil treatment unit; for the purposes of administration, operation, maintenance, and replacement; individual off-site systems shall be considered community sewage treatment systems.

Compost site means an area designated by the city for the placement of uncontaminated leaves and grass clippings.

Comprehensive plan means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities, including recommendations for planned execution; documented in text, ordinance, and maps, which constitute the guide for the future development of the community or any portion of the community.

Concealed weapon means whenever a person is carrying a weapon that is not readily ascertainable upon observing the person.

Conditional use means a specific type of structure or land use listed in individual zoning districts that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the zoning code.

Condominium. See *Dwelling, multiple, or apartment building.*

Conservation easement means an interest in real property created in a manner that imposes limitations or affirmative obligations regarding the use of property, including the retention, protection, and maintenance of open space.

Contractor maintenance shop means an area and/or building devoted to use by a person

who contracts to do certain work in the fields of building or construction trades. If there is outside storage of construction equipment, it shall be placed to the rear of the contractor's maintenance shop and screened from adjacent properties by a landscape plan approved by the city council.

Council or city council means the governing body of the city.

County means Washington County, Minnesota.

Curb level means the grade elevation of the curb in front of the center of the building. Where no curb has been established, the community engineer shall determine a curb level or its equivalent for the purpose of this definition.

Current land use means the land use as it appears on the tax statement.

Current resident list means a list of names and addresses of adult residents of the manufactured home park.

DNR means the state department of natural resources.

Dangerous dog means any dog that has:

- (a) Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (b) Killed a domestic animal without provocation while off the owner's property; or
- (c) Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Day care center means any facility licensed by the state department of human services and operated for the purpose of providing care, protection, and guidance to 14 or more individuals during only part of a 24-hour day. The term "day care center" includes nursery schools, preschools, day care centers for individuals, and other similar uses, but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

Day spa means a safe, clean commercial establishment, which employs professional licensed therapists whose services include massage and body or facial treatments. Treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, electrolysis, body toning, waxing, aromatherapy, cleansing facials, medical facials, nonsurgical face lifts, electrical toning, and electrolysis. Services may also include hydrotherapy and steam and sauna facilities, nutrition and weight management. No services or facilities may be offered or constructed that would include customer overnight stay.

Deadman throttle (safety throttle) means a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

Decibel means the unit of sound measured on the "A" weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the Standards on Sound Level Meters of the USA Standards Institute.

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.

Dedicated conservation easements means a non-possessory interest in real property imposing limitations on a parcel of land for the purposes of retaining and protecting natural or open space values of real property, assuring its availability for agricultural, forest, recreational, or other open space uses, and protecting natural resources. A conservation easement must be granted to a qualified land trust and the city. At the city's discretion, the conservation easement may go to the city if a qualified land trust does not accept the easement.

Depth of lot means the horizontal distance between the frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.

Depth of rear yard means the horizontal distance between the rear building line and the rear lot line.

Design 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 the items as rights-of-way, blocks, easements, and lots.

Designated recycling program means a program for the collection and recycling of recyclable materials which is instituted, sponsored, and controlled by the city and its contracted recycler.

Direct light means light emitted directly from a lamp, off a reflector, or through a refractor of a luminaire.

Dredging means the process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

Drive-in means any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided

within a building.

Duplex means a residential structure containing two dwelling units located on one parcel of land.

Dwelling means a building, or one or more portions of a building, occupied or intended to be occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boardinghouses, nor trailers, tents, cabins, or trailer coaches. (See *Dwelling unit*.)

Dwelling, duplex, or two-family means a residential building containing two complete dwelling units.

Dwelling, multiple, or apartment building means a residential building, or portion of a building, containing three or more dwelling units served by a common entrance.

Dwelling, seasonal, means a residential building not capable of year-round occupancy due to non-winterized construction or inadequate nonconforming year-round on-site sewage treatment systems.

Dwelling, single, means a residential building containing one detached dwelling unit.

Dwelling, single-family, means a residential structure designed for or used exclusively as one dwelling unit of permanent occupancy.

Dwelling, single-family attached, means two single-family dwellings sharing one or more common wall, each on its own individual lot.

Dwelling, single-family detached, means a single-family dwelling that is surrounded by yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

Dwelling, townhouse, means a residential building containing three or more dwelling units with at least one common wall between adjacent residences and each unit so oriented as to have all exits directly to the out-of-doors.

Dwelling unit means a residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used, or intended for use exclusively as living quarters for one family.

Easement means the right granted by a property owner to another or to the public to use a tract of land for the purpose of constructing and maintaining drives, and utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways, and gas lines.

Ecological characteristics means the features of a wetland which determines its function

as a hydrological, botanical, or zoological resource. Ecological characteristics include, without limitation, water conveyance capacity including size and configuration of cross-section of the wetland, alignment of the wetland, gradient texture of materials along the wetland, size and configuration of the characteristics of structures within the wetlands, amount and type of vegetation within the wetland, amount and type of fish, birds, and mammals within the wetland, and the water purification function of the wetland.

Elderly housing (senior housing) means a facility consisting of three or more dwelling units, the occupancy of which is limited to persons 55 years of age or older. The facility may include medical facilities or care as an accessory use. Senior housing shall typically consist of multiple-household attached dwellings, but may include other forms of attached or detached dwelling units as part of a wholly-owned and managed senior project.

Eligible park resident means a park resident who satisfies the following criteria:

- (a) Park lot rent is current within 30 days of the anticipated park closing date and personal property taxes have been paid for the current and prior years. The owner's performance of the agreement shall be secured by a bond or a cash deposit filed with the administrator in the amount of \$1,000.00;
- (b) Manufactured home has been maintained (including the roofing, siding, windows, flooring, and frame pursuant to the manufactured home park standards) for the year in which the manufactured home was constructed and the manufactured home is in good repair as determined by the city's building inspector;
- (c) Park resident is unable to locate space in a manufactured home park within a 25-mile radius which has the same or less restrictive standards; and
- (d) Personal credit history is not the reason for the park resident's inability to relocate to another manufactured home park.

Emergency means an unforeseen combination of circumstances which calls for immediate action to prevent such circumstances from developing or occurring.

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

carrying out the foregoing functions. Emergency management includes those activities sometimes referred to as "civil defense" functions.

Emergency management forces means the total personnel resources engaged in city-level emergency management functions in accordance with the provisions of LEC 3.16 or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

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

Engineer means the city engineer.

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 proportional share of flood flows.

Equivalent residential unit (ERU) sewer systems means a unit of wastewater volume of 250 gallons per day and a strength not greater than 250 mg/L of BOD and 300 mg/L of total suspended solids.

Essential services (public utility uses) means underground or overhead gas, electric, steam, or water distribution systems; collection, communication, supply, or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, or other similar equipment and accessories, but not including buildings or transmission services.

Exclusive liquor store means an establishment used exclusively for the sale of intoxicating liquor at retail either "on-sale" or "off-sale," or both.

Exterior storage means the storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed in a building.

Exterior storage (includes open storage) means the storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.

Extra strength waste (sewer systems) means waste having a BOD and/or suspended solids greater than domestic waste as defined in the definition of the term "normal domestic strength wastewater" in this section.

Extractive use means the use of land for surface or subsurface removal of sand, gravel, rock, industrial materials, other nonmetallic minerals, and peat not regulated under M.S.A. §§ 93.44 to 93.51, as they may be amended from time to time.

False alarm means the activation of an alarm system signal or message which elicits notification to and/or response by the county sheriff's office and/or city fire department when there is no evidence of a crime, fire, medical emergency, or other activity which warrants a call for immediate police, firefighting, or emergency medical assistance.

Family means an individual, or two or more persons each related by blood, marriage, adoption, or foster care arrangement living together as a single housekeeping unit, or a group of not more than four persons not so related, maintaining a common household, exclusive of servants.

Family entertainment center means amusement facilities that may include indoor miniature golf, child play areas, arcade games, batting cages, birthday party and family celebration rooms, indoor soccer/field hockey, children's adventure play gardens, and laser tag. Also typically included in this definition are small food and beverage areas and small retail areas. All facilities are non-alcoholic and smoke free.

Farm, rural, means the portion of a ten-acre or more parcel of land which is devoted to agriculture by the property owner or by a lessee of the property owner.

Farm, suburban, means a noncommercial, food-producing use primarily intended for the use of the residents, and usually on less than ten contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables, and domestic pets.

Farm school means a facility that supports a school program that emphasizes fostering a child's intellectual, social, physical, and emotional growth, using farm animals, agriculture, and nature as the learning environment and conducted as part of an operational farm.

Farmer means a person permanently residing on a tract of land of not less than ten acres in the city and who farms the land for a livelihood.

Fence means a partition, structure, wall, or gate erected as a dividing marker, visual or physical barrier, or enclosure, not to include any roof or covering.

Fill means any act by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, or transported and shall include the conditions resulting from the act.

Final plat means a drawing or map of an approved subdivision, meeting all requirements of the subdivision ordinance, codified in LEC title 103, and in the form as required by law for the purposes of recording.

Finished fill means soil compaction area and the final grade outside the wall and foundation of a structure.

Fire or emergency medical alarm means a system or portion of a combination system consisting of components and circuits arranged to monitor and annunciate the status of fire or medical emergency or supervisory signal initiating devices which are intended to summon fire or emergency medical services by the county sheriff's office and/or the city fire department.

Fish house means a water-oriented structure meant to provide periodic shelter during the winter months while atop a frozen lake for use in fishing. A structure will be considered a fish house only if it is constructed with sleds, wheels or similar means to allow transport on to a frozen lake; is not used on land for human habitation; and is not used for boat storage.

Fitness studio means a place or building where passive or active exercises and related activities are performed for the purpose of physical fitness, improved circulation or flexibility, and/or weight control. The activities shall be conducted entirely within an enclosed building. A fitness studio may include exercise equipment; and shall exclude massage in any form. The maximum allowable floor area is 5,000 square feet.

Fixture means the assembly that holds the lamp. Fixtures may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens.

Floatable oil means oil, fat, or grease in a physical state so that it will separate by gravity from wastewater.

Flood means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood frequency means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood fringe means the portion of the floodplain outside the floodway. The term "flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study for Washington County, Minnesota and incorporated areas.

Floodplain means the beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.

Floodproofing means a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Floor area means the gross area of the main floor of a residential building measured in square feet and not an attached garage, breezeway, or similar attachment.

Floor area, gross, means the sum of the gross area of the various floors of a building measured in square feet. The basement floor area shall not be included unless the area constitutes a story.

Floor area ratio means the numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which the building or buildings are located.

Floor plan, general, means a graphic representation of the anticipated use of the floor area within a building or structure.

Floriculture means the cultivation and management of ornamental and flowering plants.

Footcandle means an illuminance equal to one lumen per square foot.

Forest land conversion means the clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.

Forested area means any unit of land which has a density of trees greater than ten trees per acre.

Frontage means the boundary of a lot which abuts a public street.

Full cutoff luminaire means luminaire that allows no direct light emissions higher than 15 degrees below a horizontal plane through the luminaire's lowest light-emitting part.

Garage, private, means a detached one-story accessory building or portion of the principal building, including a carport, which is used primarily for the storage of passenger vehicles, trailers, or farm trucks.

Garage, repair, means a building or space for the repair or maintenance of motor vehicles, but not including factory assembly of the vehicles, auto wrecking establishments, or junk yards.

Garage, storage, means any premises, except those described as a private or repair garage, used exclusively for the storage of power-driven vehicles.

Garbage means solid waste resulting from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, or sale of meat, fish, fowl, fruit, or vegetable and condemned food.

Glare means direct light emitted from a luminaire that causes reduced vision or momentary blindness.

Government user (sewer systems) means users which are units, agencies, or instrumentalities of federal, state, or local government discharging normal domestic strength wastewater.

Gray water means liquid waste from a dwelling or other establishment produced by bathing, laundry, culinary operations, and from floor drains, and specifically excluding toilet waste.

Greenhouses means a building used for the growing of plants, all or part of which are sold at retail or wholesale.

Gross acres means the total area of a parcel of land including wetlands, hydric soils, steep slopes, streets, and dedicated easements.

Hauler means a person engaged in the business of refuse collection.

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

Height of building means the vertical distance between the lowest grade level at the building line and the uppermost point on the roof.

Historic structure means a structure that is at least 50 years old, in its original state. Such structure shall add to the visual integrity of the landscape.

Historical 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 historical sites. An historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state archaeologist or the director of the state historic society. All unplatted cemeteries are automatically considered to be significant historic sites.

Holding tank means a watertight sewage tank for the temporary storage of sewage until it is transported to an approved point for treatment and disposal. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Home occupation means any gainful occupation or profession engaged in by the occupant, only, of a dwelling when carried on within a dwelling unit or in an accessory building, provided that no signs other than those normally utilized in a residential district are present, that no stock in trade over 1,000 cubic feet is stored on the premises, that no over-the-counter retail sales are involved unless ancillary to the permitted business, and that entrance to the home occupation is or can be gained from within the structure. Uses include professional office, hair salons serving no more than two customers at a time, or

teaching limited to no more than three students at any time, and other uses which do not create a nuisance as outlined in LEC 9.28. A home occupation shall not be interpreted to include tourist homes, restaurants, disorderly houses as defined by M.S.A. § 609.33, subd. 1, as it may be amended from time to time, or similar uses. No home occupation shall be permitted that creates the need for more than three parking spaces at any given time in addition to the parking spaces required by the occupants. Home occupations shall not be carried on except between the hours of 7:00 a.m. and 10:00 p.m.

Horticulture means the cultivation and management of trees, plants, grasses, vegetables, and fruits.

Hotel means a building having provision for nine or more guests in which lodging is provided with or without meals for compensation, and which is open to transient or permanent guests, or both, and where no provision is made for cooking in any guest room, and which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

Illicit connections means:

(a) Either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(b) This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Illicit discharge means any direct or indirect non-stormwater discharge to the storm drain system.

Illuminance means the level of light measured at a surface.

Impervious surface means any structure or surface which interferes to any degree with the direct absorption of water into the ground, including, but not limited to, building footprints, sidewalks, paved or gravel driveways and parking areas, patios, sport courts, or any other similar surface. Decks, pervious landscaping fabric, and retaining walls

shall not be included as impervious surface.

Individual sewage disposal system means a septic tank, seepage tile sewage disposal system, or other sewage treatment device. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Individual sewage treatment system means an on-site sewage treatment system connecting to a single dwelling or other establishment, consisting of soil treatment unit, septic tank, and any associated pumping and piping systems. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

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.

Industrial users or industries (sewer systems) means:

- (a) Entities that discharge into a publicly-owned wastewater treatment works, liquid waste resulting from the process employed in industrial or manufacturing processes, or from the development of any natural resources; these are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:
 - (1) Division A. Agriculture, Forestry, and Fishing;
 - (2) Division B. Mining;
 - (3) Division D. Manufacturing;
 - (4) Division E. Transportation, Communications, Electric, Gas, and Sanitary Sewers; or
 - (5) Division I. Services.
- (b) Any non-governmental user of a publicly-owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

Industrial waste means the solid, liquid, or gaseous waste resulting from industrial or manufacturing processes, trade, or business, or from the development, recovery, or processing of natural resources.

Industrial wastewater (sewer systems) means the liquid, solid, or gaseous processing

wastes from an industrial manufacturing process, trade, or business, including, but not limited to, all Standard Industrial Classification Manual divisions A, B, D, E, or I, as distinct from domestic wastewater.

Industry, municipal sewer system, means any non-governmental or nonresidential user of a publicly-owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, categorized in divisions A, B, D, E, and I.

Institutional housing means housing for students, mentally ill, infirm, elderly, nurses, physically retarded, and similar housing of a specialized nature.

Institutional user (sewer systems) means users other than commercial, governmental, industrial, or residential users, discharging primarily normal domestic strength wastewater (e.g., non-profit organizations).

Intensive vegetation clearing means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Interim use means a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Intoxicating liquor and *liquor* mean ethyl alcohol and distilled, fermented, spirituous, vinous, and malt beverages containing in excess of 3.2 percent alcohol by weight.

Intrusion alarm means a robbery, burglary, panic, or other alarm intended to summon the police, which is designed either to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion.

Junk. All exterior storage not permitted by LEC 105.04.020 or included as a permitted accessory use, a permitted use, or included as part of a conditional use permit, or otherwise permitted by the provisions of this Code, is defined as junk within the meaning of LEC 9.28.030(b)(11).

Junk yard means an area where discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber products, bottles, and used building materials. Storage of the material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

Kennel, animals, means any place where four or more of any type of domestic pets, over four months of age, are owned, boarded, bred, or offered for sale.

Lamp means the component of a luminaire that produces light.

Land alteration means the excavation or grading of land involving movement of earth and materials in excess of 50 yards.

Land reclamation means the reclaiming of land by depositing material so as to elevate the grade, depositing of a total of more than 50 cubic yards of material per lot or parcel, either by hauling in or re-grading the area.

Landscaping means planting trees, shrubs, and turf covers such as grasses and shrubs.

Licensee means any park operator licensed by the state to maintain and operate a manufactured home park.

Lift means the mechanical system designed to elevate or lower someone or something up or down a topographical slope.

Light trespass means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

Loading space means a space, accessible from a street, alley, or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.

Local alarm means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of the structure.

Lodging room means a room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

Lot.

(a) The term "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.

(b) The term "lot" means an area within a manufactured home park designed or used for the accommodation of a manufactured home.

Lot area means the minimum of a horizontal plane within the lot lines.

Lot area minimum per family means the minimum number of square feet or acres of lot area required per dwelling unit.

Lot, buildable, means a lot which meets or exceeds all requirements of the community land use and development ordinances without the necessity of variances.

Lot consolidation means the combining of two or more existing parcels into one parcel and recorded as one parcel with the county recorder's office.

Lot, corner.

- (a) The term "corner lot" means a lot situated at the junction of and abutting on two or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.
- (b) The term "corner lot" means a lot situated at the intersection of two streets, the interior angle of the intersection not exceeding 135 degrees.

Lot depth means the mean horizontal distance between the front and rear lines of a lot.

Lot improvement means any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of the betterment.

Lot, interior, means a lot other than a corner lot, including through lots.

Lot line means the property line bounding a lot, except that, where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of the public right-of-way shall be the lot line.

Lot line, front, means the boundary of a lot which abuts a public street. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner. In the case of a corner lot in a nonresidential area, the lot shall be deemed to have frontage on both streets.

Lot line, rear, means the boundary of a lot which is opposite to the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot line, side, means any boundary of a lot which is not a front lot line or a rear lot line.

Lot, non-riparian, means a separate parcel of land within a designated shoreland area but which does not have frontage along a lake or tributary stream.

Lot, riparian, means a separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.

Lot, through, means any lot other than a corner lot which abuts more than one street. On a through lot, all the street lines shall be considered the front lines for applying this definition.

Lot width means the horizontal distance between the side lot lines of a lot measured at the setback line.

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.

Lumen means a unit of measurement of the light emitted from a source.

Luminaire means the complete lighting system, including the lamp and the fixture.

MDH means the Minnesota Department of Health.

MPCA means the Minnesota Pollution Control Agency.

M.S.A. means and refers to the latest edition or supplement of Minnesota Statutes Annotated.

Manufactured home.

- (a) The term "manufactured home" means a structure, not affixed to or a 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 placed on a lot, 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 system contained in it.
- (b) The term "manufactured home" means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. The term "manufactured home" includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under the M.S.A. § 327.31, subd. 3, as it may be amended from time to time. No manufactured dwelling shall be moved into the city that does not meet the Manufactured Home Building Code as defined in M.S.A. § 327.31, subd. 3. The term "manufactured home" does not include recreational vehicles as regulated in the zoning code.

Manufactured home lot means a parcel of land for the placement of a single manufactured home and the exclusive use of its occupants.

Manufactured home park means any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for

compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured home park. The term "manufactured home park" does not include facilities which are open daily during three or fewer seasons of the year.

Manufacturing, general, means all manufacturing, compounding, processing, packaging, treatment, or assembly of goods or materials which involve a risk of offensive or dangerous noise, odor, or pollution beyond the lot on which the use is located. Uses include, but are not limited to, the following: sawmill, refineries, commercial feedlots, acid, cement, explosives, flour, feed, and grain milling or storage, meat packaging, slaughter houses, coal or tar asphalt distillation, rendering of fat, grease, lard, or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of pans, tanneries, automobile parts, paper and paper products including storage, electric power generation facilities, vinegar works, junk yards, auto reduction yards, foundry, forge, casting of metal products, rock, stone, and cement products.

Manufacturing, limited, means all compounding, processing, packaging, treating, or assembling of goods and materials, provided the use will not constitute a nuisance because of offensive odors, glare, smoke, dust, noise, vibrations, or other pollution extending beyond the lot on which the use is located. Uses include, but are not limited to, the following: machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair (repair garage), bodywork and painting, contractor shops and storage yards, food and non-alcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles, used auto parts, warehousing, and wholesale business.

Manure means any solid or liquid containing animal excreta.

May means the act referred to is permissive.

Medical uses means those uses concerned with the diagnosis, treatment, and care of human beings. Medical uses include: hospitals, dental services, medical services or clinics, nursing or convalescent homes, orphan's homes, rest homes, and sanitariums.

Mining means the excavation, removal, or storage of sand, gravel, rock, soil, clay, and other natural deposits within the city, except:

- (a) For the purpose of the foundation, cellar, or basement of some pending structure, for which a permit has been issued, and which is to be erected immediately following the excavation, removal, or storage;
- (b) For the purpose of construction of sewer lines, storm sewers, water mains, surface water drainage, agricultural or conservation purposes, and sod removal;
- (c) For the moving of dirt for landscaping purposes on a lot used or to be used for residential purposes; or

(d) For the moving of dirt within the construction limits of a road project.

The term "mining" also means the extraction of sand, gravel, rock, soil, or other material from the land and the removal thereof from the site. Mining shall not include the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved plats, or utility highway construction, minor agricultural, and sod removal.

Minn. R. means and refers to the latest edition or supplement of the Minnesota Administrative Regulations codified as "Minnesota Rules."

Modular or prefabricated home means a non-mobile dwelling unit for year-round occupancy constructed or fabricated at a central factory and transported to a building site where final installations are made permanently affixing the dwelling to the site. The dwelling unit shall be equivalent to a unit constructed on the site, meeting all requirements of the state building code.

Monopole means a freestanding, self-supporting tower that uses a single pole, does not use a lattice design and has no guy wires.

Month means a calendar month.

Motor courts, motor hotel, or motel means a building or group of buildings other than a hotel used primarily as a temporary residence of a motorist.

Motor freight terminal means a building or area in which freight brought by motor truck is transferred and/or stored for movement by motor truck.

Motorboat means a watercraft propelled in any manner by machinery, including watercraft temporarily equipped with detachable motors.

Mottling means a zone of chemical oxidation and reduction activity within the soil, appearing as patches of red, brown, orange, or gray or combination of these colors.

Mound system means an alternative sewage treatment system designed with the soil treatment area built above existing grade to overcome the limitations of water table, bedrock, or soil permeability. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Multi-tenant building means a grouping of two or more business establishments that either share common parking on the lot where they are located, or that occupy a single structure or separate structures that are physically or functionally related or attached.

Municipal separate storm sewer system (MS4) means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the

city and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

Municipal urban service area means an area guided for municipal sanitary sewer service.

National pollutant discharge elimination system (NPDES) stormwater discharge permit means a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Natural outlet means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

Natural soil means soil which exists undisturbed in its natural state; fill shall be considered as natural soil after it has been in place for a minimum of 12 months.

Natural terrain means areas other than roadways or driveways (private or public), parking lots, and other areas the surface of which has been intentionally modified for motor vehicle operation.

Net density means the number of housing units divided by the amount of net developable land. Net developable land does not include water bodies (including wetlands and lakes, but not stormwater ponds), parks and open space (only if owned by the city and available for public use), arterial right-of-way, and other land reserved for future development or not developable according to city ordinances (i.e., steep slopes or conservation areas).

Noise, ambient, means the all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from any sources near and far or a single predominate source.

Non-agricultural low impact means the outdoor storage of off-road mobile construction equipment of any weight; the indoor storage of the aforementioned items and other goods and materials which, in the determination of the city council, do not jeopardize the health, safety, or welfare of the city; nature farms; agricultural museums; farmers' markets; small engine repair shops; contractor maintenance shops; or office space as an accessory use to the aforementioned uses.

Noncommercial speech means a sign that contains a noncommercial message. Examples of noncommercial messages include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

Non-contact cooling water means water discharged from uses such as air conditioning, cooling, or refrigeration, where the only pollutant added is heat.

Nonconformity or nonconforming use means any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments to the zoning regulations that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded, or authorized.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Normal domestic strength wastewater means wastes which are characterized by a per capita discharge of 75 gallons per day at a loading not greater than 250 mg/L BOD and 300 mg/L total suspended solids.

Noxious matter means material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.

Nursing home means a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. The nursing home shall be licensed by the state as provided by law.

Oath means an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed." All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

Obstruction (floodplain) means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water.

Occupant means the person living in an individual home.

Off-sale means the sale of liquor in original packages in retail stores for consumption off or away from the premises where sold.

Office use means those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired, including, but not limited to, banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting, and similar uses.

Officer, office, employee, commission, or department means an officer, office, employee, commission, or department of the city unless the context clearly requires otherwise.

Official control means legislatively defined and enacted policies, standards, precise detailed maps, and other regulations and performance standards all of which control the physical development of the city or any part of the city, for the purpose of accomplishing the general objectives of the comprehensive plan. The official controls may include, but are not limited to, ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps.

Official map means a map adopted in accordance with the provisions of M.S.A. § 462.359, as it may be amended from time to time.

On-sale means the sale of liquor by the glass for consumption on the premises only.

Open bottle means any container, bottle, or other receptacle for liquor in which the cork, bottle cap, lid, or other sealing device is not in place and in a closed position.

Open door means anytime an officer or citizen discovers a door or window which is not properly secured, in a location which is protected by an alarm; and/or, anytime an officer responds to an alarm and discovers a door or window which is not properly secured.

Open fire or open burning means a fire burning in a manner, whether concentrated or disbursed, which is not contained within a fully enclosed firebox, structure, or vehicle and from which the products of combustion are emitted directly to the open atmosphere without passing through stack, duct, or chimney.

Open sales lots means lands devoted to the display of goods for sale, rent, lease, or trade, where the goods are not enclosed within a building.

Open space means a tract of land used for agricultural, natural habitat, walkways (sidewalks) and pathways, and/or neighborhood recreational purposes.

Open Space Preservation (OP) permits means, generally, permits issued in connection with the city's review and approval of a development within an OP.

Open storage means storage of any material outside of a building.

Operate (snowmobile and recreational vehicles) means to ride in or on and control the operation of a snowmobile or ATV.

Operation and maintenance costs (sewer systems) means expenditures for the wastewater treatment facilities to provide the performance for which the facilities were constructed; the term "operation and maintenance" includes replacement.

Operator (snowmobile and recreational vehicles) means every person who operates or is in actual physical control of a snowmobile or ATV.

Ordinary high water mark or elevation (OHW) 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.

Other establishment (sewer systems) means any public or private structure other than a dwelling which generates sewage.

Outlot means a lot remnant or irregular parcel of land included in a plat, which may be used as open space; the outlot may be a large tract that could be subdivided in the future or may be too small to comply with the minimum size requirements of city zoning and subdivision ordinances and not usable as a building site.

Owner.

- (a) The term "owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.
- (b) The term "owner" means and includes all persons interested in the property as fee simple owner, life estate holder, encumbrancer, or otherwise.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Package or original package means and includes any container or receptacle holding liquor, which container or receptacle is corked or sealed.

Paddle boat means a non-motorized watercraft 19 feet in length or less that is propelled solely by a paddle wheel peddled by an operator or passenger.

Park (manufactured home) means any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured home park.

Park and ride means parking lots or structures located along public transit routes designed to encourage transfer from private automobile to mass transit or to encourage carpooling for the purposes of commuting, or for access to recreation areas.

Park closing means the conversion of all or a portion of the occupied lots of a manufactured home park to another use or the termination of use of the manufactured home park.

Park operator means the person who owns, maintains, or operates a manufactured home park properly licensed under state law.

Park owner means the owner of a manufactured home park.

Park resident means an owner of a manufactured home located on a lot in a manufactured home park within the city who rents the lot and occupies the manufactured home as a principal residence.

Parking space means a suitably surfaced and permanently maintained area on privately-owned property, either within or outside of a building of sufficient size, to store one standard automobile, ten feet by 20 feet.

Parks and playgrounds mean public land and open spaces in the city dedicated or reserved for recreation purposes.

Pedestrian way means a public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

Percentage of grade means the slope of a surface, such as a vertical rise or fall expressed as a percentage of the horizontal distance.

Percolation rate means the calculated time rate of drop of a water level in a test hole as specified in the sewer regulations.

Performance standards means the minimum development standards as adopted by the governing body and on file in the office of the building official.

Permanent outdoor luminaire means any luminaire or system of luminaries that is outdoors and that is intended to be used for seven days or longer.

Person.

- (a) The term "person" means any natural individual, firm, partnership, association, or corporation. As applied to partnerships or associations, the term "person" includes the partners or members; as applied to corporations, the term "person" includes the officers, agents, or employees.
- (b) The term "person" extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the term "person" or "whoever" as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.
- (c) Any person, firm, corporation, or association which owns any coin-operated machine. The person, firm, corporation, or association in whose place of

business any coin-operated machine is placed for use by the public. The person, firm, corporation, or association having control over the machine. The payment of the fee by any person, firm, corporation, or association enumerated in LEC 11.04.100 et seq. shall be deemed a compliance with LEC 11.04.100 et seq.

Planner means the city planner.

Planning agency means a planning commission or department, however created, or the office of a planning or zoning director or inspector or the office of any official designated as the planning or zoning director or inspector, together with any staff members, employees, or consultants of the commission, department, director, inspector, or official, and the board of adjustment and appeals and its employees or staff.

Planning commission means the duly appointed planning commission of the city.

Plastic limit means a soil moisture content, below which the soil may be manipulated for the purpose of installing a soil treatment system.

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

Porch means a covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.

Potentially dangerous dog means any dog that:

- (a) When unprovoked, inflicts bites on a human or domestic animal on public or private property;
- (b) When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- (c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Practical difficulties, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

Preceding or following means next before or next after, respectively.

Preliminary plat means a tentative drawing or map of a proposed subdivision meeting requirements enumerated in the subdivision regulations codified in LEC title 103.

Preschool means a licensed facility for the organized instruction of children who have not reached the age for enrollment in kindergarten. The term "preschool" does not include school-aged childcare.

Primary conservation area means wetlands, hydric soils, restrictive soils, shorelands, and steep slopes which shall be preserved.

Principal structure or use means one which determines the predominant use as contrasted to accessory use or structure.

Private open space means open space owned by a private legal entity.

Proper enclosure means securely confined indoors, or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog 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 dog from exiting.

Protective or restrictive covenants means declarations made by an owner or contracts made between owners as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

Public improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvements, or other improvements for which the city may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Public land means land owned or operated by a municipality, school district, county, state, or other governmental unit.

Public parks or park means real property owned by the city devoted to recreational use.

Public place means any park, street, sidewalk, athletic field, or building which is maintained and controlled by the city and subject to use by the public at-large.

Public waters means any waters as defined in M.S.A. § 103G.005, subd. 15, as it may be amended from time to time.

Race track means any area where two or more power-driven vehicles or animals are raced for profit or pleasure.

Reach (floodplain) means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recording studio means the premises owned or leased by a production organization for the purpose of recording sound and/or video. The term "recording" shall mean capturing the original live performance of musicians and/or actors onto disc, tape, solid state device, or whatever medium is dictated by the state of the art. The function of a recording studio shall also include post-production in which sound and/or pictures are combined/edited and processed into a final form for broadcast, compact disc, or whatever media is currently in vogue.

Recreation equipment means play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 25 feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures, but not including tree houses, swimming pools, play houses exceeding 25 square feet in floor area, or sheds utilized for storage of equipment.

Recreation vehicle parks means a park, court, camp site, lot, parcel, or tract of land designed, maintained, or intended for the purpose of supplying the location or accommodations for any recreation vehicles as defined in this section, and upon which the recreation vehicles are parked. The term "recreation vehicle park" shall include all buildings used or intended for use as part of the equipment of the park, whether a charge is made for the use of the park and its facilities or not.

Recreational fire means:

- (a) A fire set for cooking, warming, recreational, or ceremonial purposes which does not exceed three square feet and three feet in height, and has had the ground five feet from the base of the fire cleared of all combustible material.
- (b) Fires which do not exceed four feet in diameter, and three feet in height. Fires which exceed this size must have a permit.

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. For the purposes of the floodplain management regulations, the term "recreational vehicle" shall be synonymous with the term "travel trailer/travel vehicle."

Recyclable materials means items of refuse which are part of any authorized recycling program and which are intended for transportation, processing, and manufacturing or reuse, including, but not limited to, paper, glass, aluminum and other metal cans and

containers, corrugated cardboard, magazines, and certain types of plastics.

Refuse means putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, and incinerator residue.

Refuse collection service means a private operation engaged in solid waste collection and solid waste transportation.

Regional flood means a flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. The term "regional flood" is synonymous with the term "base flood" used in the flood insurance study.

Registered owner of motor vehicle means the owner and address as shown on the records of the office of motor vehicle registration of the state highway department.

Regulatory flood protection elevation means an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Religious institutions means establishments that are intended to primarily provide meeting areas for religious activities. Accessory uses include Sunday school facilities, parking, caretaker's housing, and group living facilities such as convents. Examples include churches, temples, synagogues, and mosques.

Relocation costs means the reasonable cost of relocating a manufactured home from a manufactured home park in the city to another manufactured home park within a 25-mile radius; the cost includes expenses incurred in the following categories:

- (a) *Preparation for move.* Reasonable costs incurred to prepare the manufactured home for transportation to another site. This category does include crane services but not the cost of wheel axles, tires, frame welding, or trailer hitches.
- (b) *Transportation to another site.* Reasonable costs incurred to transport the manufactured home to another manufactured home park within a 25-mile radius. This category includes the cost of insuring the manufactured home for its replacement value while the manufactured home is in the process of being relocated and the cost of obtaining moving permits, provided that the park owner shall not be required to pay delinquent taxes on a manufactured home if necessary in order to obtain a moving permit. This category does not include the cost of moving personal property.
- (c) *Hookup at new location.* The reasonable cost of connecting the manufactured home to utilities at the relocation site, provided that this category does include crane services. The park owner shall not be required to upgrade the electrical or

plumbing systems of the manufactured home.

Replacement costs (sewer systems) means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the design or useful life, whichever is longer, of the wastewater treatment facilities to maintain the capacity and performance for which the facilities were designed and constructed.

Research means medical, chemical, electrical, metallurgical, or other scientific research and quality control, in accordance with the provisions of this section.

Residential user (sewer systems) means those users which are connected to the public wastewater collection system as distinct from industrial, commercial, institutional, and governmental users.

Resort means any structure or group of structures containing more than two dwelling units or separate living quarters designed or intended to serve as seasonal or temporary dwellings on a rental or lease basis for profit with the primary purpose of the structure or structures being recreational in nature. Uses may include a grocery for guests only, fish cleaning house, marine service, boat landing and rental, recreational area and equipment, and similar uses normally associated with a resort operation.

Restaurants.

- (a) The term "restaurant" means any establishment, other than a hotel, having appropriate facilities for the serving of meals to not less than 30 guests at one time.
- (b) To qualify as a restaurant, the establishment shall meet all of the following conditions:
 - (1) Meals shall be regularly furnished at tables to the general public, in consideration of payment.
 - (2) An adequate staff shall be employed to provide the usual and suitable services to its guests.
 - (3) The principal part of its business shall be the serving of food.
 - (4) It shall be under the control of a single proprietor or manager.
 - (5) The ground floor of the establishment must comprise an area of not less than 2,000 square feet of usable floor space, which area may include the back bar area in addition to the area used for dining and drinking, but shall exclude the kitchen and storage areas.

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

clippings, fallen leaves, tree trimmings, parts of dead trees, wood, glass, bedding, crockery, or litter of any kind.

Runway means a surface of an airport landing strip.

Runway instrument means a runway equipped with navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

Rural hamlet means a group of five to 25 housing units located in a contiguous group, with adjacent and fronting lots oriented towards each other in some geometric way as on a street or a village green or square, and forming a distinct boundary with the countryside.

Safety throttle (deadman throttle) means a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

Sailboard means a single passenger, non-motorized watercraft using a surfboard-type hull and a free sail system which, without capsizing, allows the sail to lie flat in the water when not supported by the operator.

Sale or sell (intoxicating liquor) means to directly or indirectly, by any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction.

Saloon means an establishment, such as a bar or a lounge, which sells 3.2 percent malt liquor on sale at retail and which may also sell cigars, cigarettes, all forms of tobacco, beverages, and soft drinks.

Sand means a soil texture composed by weight of at least 85 percent of soil particles ranging in size between 0.05 and 2.0 mm.

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water, and groundwater are not intentionally discharged.

Sanitary waste means the liquid and water-carried wastes discharged from sanitary plumbing facilities.

Satellite dish or *satellite earth station antenna* means a round, conical, or cone-shaped device more than 18 inches in diameter and placed outdoors on the ground or on a structure and used to transmit and/or receive radio or electromagnetic waves.

Scavenging means the unauthorized collection of recyclable materials that have been specifically set out by residents of the city for the purpose of participating in curbside recycling programs.

Schools, public and private, means establishments at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before or after school day care. Examples include public and private daytime schools, boarding schools, and military academies. Exemptions:

- (a) Preschools are classified as day care facilities; and
- (b) Business schools and professional private trade schools.

Screening:

- (a) The term "screening" means fences at least five feet high or earthen berms at least three feet high with compact evergreen or deciduous hedges which extend at least three feet beyond the object to be screened, or vegetative or landscaping materials sufficient to provide a complete screen to the same height, to block direct visual access.
- (b) The term "screening" also means and includes earth mounds, berms, or ground forms, fences, and walls; landscaping (plant materials) or landscaped fixtures (such as timbers); used in combination or singularly, so as to block direct visual access to an object.

Second conservation area means woodlands, meadows, viewsheds/corridors, and historic structures.

Seepage pit (leaching pit or dry well) means a lined underground pit into which sewage tank effluent or other liquid waste is discharged and from which seepage into the soil occurs through the bottom and sidewall openings. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Senior housing. See Elderly housing.

Septage means those accumulated solids and liquids removed from a sewage tank or holding tank during regular periods of maintenance. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Septic tank means a sound, durable, watertight sewage tank designed and constructed to receive the discharge of sewage from a building sewer, separate solids from liquids, digest organic matter, and store liquids through a period of detention. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

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. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the

structure at ground level. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Sewage means any water carrying domestic water, exclusive of footing and roof drainage, from any dwelling, industrial, agricultural, commercial establishment, or other structure. Domestic waste includes, but is not limited to, liquid waste produced by bathing, laundry, and culinary operations, and liquid waste from toilets and floor drains, and specifically excludes animal waste and commercial process waste. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Sewage tank means a watertight tank used for the retention of sewage, which includes, but is not limited to, septic tanks, holding tanks, and dumping chambers. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Sewage treatment system means a septic tank and soil absorption system or other individual or cluster type sewage treatment system. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Sewer system means the municipal sanitary sewer system.

Shall, must means the act referred to is mandatory.

Shopping center means any grouping of two or more principal retail uses whether on a single lot or on abutting lots under multiple or single ownership.

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.

Shoreland means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or foliage; and 300 feet from a river or stream, or the landward extend of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

Signature or subscription means and includes a mark when the person cannot write.

Site, previously developed, means a lot or parcel upon which a dwelling or other establishment is in existence as of the enactment of the ordinance.

Site, soil treatment, means the area bounded by the dimension required for the proper location of a soil treatment system.

Slope means the ratio of vertical rise or fall to horizontal distance.

Slow no-wake means operation of a watercraft at the slowest possible speed necessary

to maintain steerage and in no case greater than five miles per hour.

Slug means any discharge of water, wastewater, or industrial waste which in concentration of any given constituent, or in quantity of flow, exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration of flow during normal operation.

Small engine repair means the tune-up, winterizing, rebuilding, and general repair of internal combustion engines of 24 rated horsepower or less, together with repairs and replacement of mechanical components of the machines or tools powered by the engines, including, but not limited to, lawn mowers, snow blowers, garden tillers, chain saws, and pumps; and specifically excluding snowmobiles, ATVs, motorcycles, and personal watercraft. Retail or wholesale sales of any product are specifically excluded.

Snowfall.

- (a) The term "snowfall" means ground accumulation of snow two inches or more within a 24-hour period.
- (b) The 24-hour period shall be counted back from 8:00 a.m. of the day in determining whether there is an accumulation of two inches.

Snowmobile means a self-propelled vehicle designed for travel on snow or ice, steered by skis or runners.

Soil characteristics, limiting, means those soil characteristics which preclude the installation of a standard system, including, but not limited to, proximity to bedrock or water table, and percolation rates which are excessively fast or excessively slow.

Soil modification means the alteration of natural soil conditions by means, including, but not limited to, placement of fill, removal of soil, or alteration of topography.

Soil survey means the U.S. Department of Agriculture, Soil Conservation Service, Soil Survey of Washington County, 1977.

Soil textural classification. Where soil particle sizes or textures are specified in this Code, they refer to the soil textural classification found in the Soil Survey Manual, Handbook No. 18, U.S. Department of Agriculture, 1951.

Solid waste means garbage, refuse, and other discarded solid materials, except animal waste used as fertilizer, including solid waste materials resulting from industrial, commercial, and agricultural operations; solid waste does not include earthen fill, boulders, rock, and other materials normally handled in construction operations.

Solid waste collection means the gathering of solid waste from public or private places.

Solid waste transportation means conveyance of solid waste from one place to another, by means of vehicle, rail car, water vessel, conveyor, or other means.

Stable, private, means the keeping, breeding, raising, and uses of horses or ponies on open space owned and maintained by an association of adjacent property owners for the exclusive personal use and enjoyment of association members and for which commercial gain is not the primary objective.

Standard system means an individual sewage treatment system employing a building sewer, sewage tank, and the soil treatment system commonly known as a dram field or leach field.

State means the State of Minnesota.

State disposal system (SDS) permit means any permit, including any terms, conditions, and requirements of the permit, issued by the MPCA pursuant to M.S.A. § 115.07, as it may be amended from time to time, for a disposal system as defined by M.S.A. § 115.01, subd. 5, as it may be amended from time to time.

State funds means any bond revenues or any money appropriated or allocated by the legislature.

Steep slope.

- (a) The term "steep slope" means land where agricultural activity or development is either not recommended or described as poorly suited, due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this definition.
- (b) Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Stock in trade means any equipment, merchandise, or materials necessary to or used in a trade or business.

Storm drainage system means publicly-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and humanmade or altered drainage channels, reservoirs, and other drainage structures.

Storm sewer or storm drain means a drain or sewer intended to carry stormwater, surface runoff, groundwater, subsurface water, street wash water, drainage, and unpolluted water

from any source.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Stormwater management plan means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Story means the portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space is more than six feet above grade as defined in this section for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined in this section at any point, the basement, cellar, or unused under-floor space shall be considered as a story.

Street means a public right-of-way affording primary access by pedestrians or vehicles, or both, to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, or boulevard. The term "public," in the subdivision regulations, means that the right-of-way has been dedicated to public use for street purposes and has been accepted for maintenance by the city. Whenever the term "street" is used, it shall mean a public street unless the context indicates a different meaning.

Street, arterial, means those streets carrying larger volumes of traffic and serving as links between various communities of the area. Arterial streets are intended to provide for collection and distribution of traffic between highways and collector streets.

Street, collector, means those streets which carry traffic from local streets to the major system or arterials and highways. Collector streets primarily provide principal access to residential neighborhoods, including, to a lesser degree, direct land access.

Street, cul-de-sac, means a local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Street, local, means those streets which are used primarily for access to abutting properties and for local traffic movement.

Street, major or thoroughfare, means a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

Street, marginal access, means those local streets which are parallel and adjacent to

thoroughfares and highways, which provide access to abutting properties and protection from through traffic.

Street, minor, means a street intended to serve primarily as an access to abutting properties.

Street, pavement, means the wearing or exposed surface of the roadway used by vehicular traffic.

Street, width, means the width of the right-of-way measured at right angles to the centerline of the street.

Structural alteration means any change, other than incidental repairs, which would affect the supporting member of a building, such as bearing walls, columns, beams, girders, or foundations.

Structure means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, signs, recreation vehicles not meeting the exemption criteria specified in LEC 100.00.090(c)(1), and other similar items.

Subchapter means a division of a chapter, designated in this Code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

Subdivision means a described tract of land which is to be or has been divided into two or more lots or parcels for the purpose of transfer of ownership, building development, or for tax assessment purposes. The term "subdivision" includes re-subdivision and, where it is appropriate to the context, relates either to the process of subdividing, to the land subdivided, or to the development for which it is being subdivided.

Substandard building means any building or structure lawfully existing on the effective date of this Code or any amendment to this Code, which building or structure does not conform with the regulations, including dimensional standards, for the district in which it is located after the effective date of this Code or the amendment.

Substandard structure. See *Substandard building*.

Substantial bodily harm means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

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, within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

- (a) 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.
- (b) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure. For the purpose of the floodplain management regulations, the term "historic structure" shall be as defined in 44 CFR 59.1.

Supper club means a building with facilities for the serving of meals and where meals are regularly served at tables to the general public. The building must be of sufficient size and design to permit the serving of meals to not less than 50 guests at one time. Intoxicating liquors may be sold on-sale and live entertainment and/or dancing shall be permitted.

Surface water flooding means the 100-year floodplain along rivers and streams as defined by the DNR, or in the absence of the data, as determined by the largest flood on record; on lakes, high water levels as determined or recorded by the DNR, or, in the case of no DNR record, by local records of information.

Surface water management fee means the yearly charge developed for each parcel of land.

Suspended solids (SS) means solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering in accordance with the latest edition of Standard Methods for the Elimination of Water and Waste Water.

Swimming pool means any permanently located pool, used for swimming and/or bathing, which is over 24 inches in depth, or which has a surface area exceeding 150 square feet.

Swimming pool, private or residential, means any pool which is used, or intended to be used, as a swimming pool in connection with a single-family residence, and which is available only to the family of the household and private guests.

Swimming pool, public or semi-public, means any swimming pool other than a private swimming pool.

Tavern means an establishment for the retail on-sale of 3.2 percent malt liquors, and which, in addition, provides dancing, singing, or vaudeville performances or entertainment for its guests, or provides for them the privilege of dancing.

Ten-year flood means the flood which can be expected to occur, on an average, of once in ten years; or the level to which floodwaters have a ten percent chance of rising in any given year.

Terminal, bus/truck, means an area and building where buses, trucks, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

Therapeutic massage means the process by which a practitioner applies massage therapy techniques, and may apply adjunctive therapies, with the intention of positively affecting the health, and well-being of the client. The rubbing, stroking, kneading, tapping, positioning, causing movement and applying touch and pressure to the body. Adjunctive therapies may include: application of heat, cold, water, mild abrasives, heliotherapy, topical preparations not classified as prescription drugs; the use of mechanical devices and tools which mimic or enhance manual actions; and instructed self-care and management. Massage therapy shall not include techniques traditionally practiced by chiropractors. Therapeutic massage shall be performed only by a person who has provided the city with proof of professional liability insurance and/or national certification.

Toe of the bluff means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

Toilet waste means fecal matter, urine, toilet paper, and any water used for flushing.

Top of the bluff means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

Tower accessory equipment means a structure located at the base of a tower housing radio receiving/transmitting equipment and other associated electronic equipment necessary for a communications facility.

Tower height means the vertical distance from the average grade at the base of a tower to the highest point of a tower or to the highest point of the highest wireless communications facilities on a tower, whichever is higher.

Townhouse means a grouping of three or more attached, single-family dwellings in which each unit has its own front and rear access to the outdoors; no unit is located over any other unit; and each unit is separated from any other unit by one or more common walls.

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 Clean Water Act of 1977, 33 USC § 1251 et seq., as it may be amended from time to time.

Trails means areas constructed within the city for a designated use, such as walking, non-motorized biking, rollerblading, skateboarding, equestrian trails, if appropriate.

Transportation terminal means a truck, taxi, airplane, bus, train, and mass transit terminal and storage area, including motor freight (solid and liquid) terminal.

Tree means a wood plant reaching 30 feet or more in height at maturity.

Truck stop means a motor fuel station devoted principally to the needs of tractor-trailer units and trucks, and which may include eating and/or sleeping facilities.

Unified residential area means a residential grouping of lots that share a plat name over one or more additions.

Use, accessory, means a use subordinate to and serving the principal use or structure on the same lot and customarily incidental to the principal use.

Use, nonconforming. See zoning code, LEC title 105.

Use, open, means the use of land without a building or including a building incidental to open use.

Use, principal. See *Principal structure or use*.

Use, substandard. See zoning code, LEC title 105.

User charge (sewer systems) means a charge levied on users of a treatment works, for the user's proportionate share of the cost of operation and maintenance (including replacement) of the treatment works.

User charge system (sewer systems) means a system based on estimated use of wastewater treatment services where each user (or user class) pays its proportionate share of operation and maintenance (including replacement) costs of treatment works within the grantee's service area, based on the user's proportionate contribution to the total wastewater loading from all users (or user class); the user's contribution shall be based on factors such as strength, volume, and delivery flow rate characteristics.

Users (sewer systems) means those residential, commercial, institutional, industrial, and governmental establishments which are connected to the public sewer collection system.

Utility factor means the amount of runoff per acre of land, per parcel for a particular land use divided by the amount of runoff from a 1.5-acre residential lot.

Utility pole means a structure which is owned by a governmental agency or utility company and which is used to support illumination devices or lines and other equipment carrying electricity or communications.

Valve box means any device which can stop sewage tank effluent from flowing to a portion of the soil treatment system. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

Varda means a portable self-contained alarm system which is installed by the county sheriff's office with the sole purpose of detecting a possible break-in.

Variance means a modification of a specific permitted development standard required to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship as defined in the zoning code. Economic considerations alone shall not constitute a hardship.

Vehicle repair means general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including bodywork, framework, welding, and major painting service.

Veterinary means those uses concerned with the diagnosis, treatment, and medical care of animals, including animal or pet hospitals.

Village green means an open space area surrounded by homes and designed as a central gathering area or park for residents of the neighborhood and/or residents of the community.

Visible triangle means the area created by drawing an imaginary line between points 30 feet back from where the curb lines of the intersection quadrant meet.

Vision triangle means a triangular area at an intersection, formed by the two roads or rights-of-way and a third line, which must be kept clear of visual obstructions so that approaching vehicles have an unobstructed view.

Warehousing means the storage, packing, and crating of materials or equipment within an enclosed building or structure.

Warning notice means a notification provided to the owner or person in charge of an alarm site by the county sheriff's office for false alarms due to system malfunction or

when no reason can be determined for the false alarm. The warning notice will require that the alarm system be inspected and/or serviced within five working days with written documentation submitted to the city that the system is in working order.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Wastewater service charge (sewer systems) means the total of the charges for operation and maintenance, and replacement.

Wastewater treatment facilities means an arrangement of devices and structures used for treating wastewaters which have been constructed with state and federal grants.

Water-oriented accessory structure or facility means a small, above-ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of these structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Water table means the highest elevation in the soil where all voids are filled with water, as evidenced by soil mottling, the presence of water, or other information.

Watercraft means any motorboat, paddle boat, personal watercraft, sailboard, or any other contrivance used or designed for navigation on water except:

- (a) Duck boats during the hunting season;
- (b) A rice boat during the harvest season; and/or
- (c) A seaplane.

Watercraft, personal, means a boat that:

- (a) Is powered by an inboard motor powering a water jet pump or by an outboard or propeller-driven motor; and/or
- (b) Is designed to be operated by a person or persons sitting, standing, or kneeling on the craft, rather than in the conventional manner of sitting or standing inside a motorboat.

Waterfront use (residential) means boat docks and storage, fish house, fish cleaning, water recreation, equipment, and other uses normally incidental to a lakeshore residence provided the uses are for the exclusive use of the occupants and nonpaying guests.

Watertight means constructed and maintained to prevent inflow of water or outflow of

effluent.

Wayside stand means a temporary structure or vehicle used for the seasonal retail sale of agricultural goods, floriculture, and horticulture produced by the operator of the wayside stand, which is clearly a secondary use of the premises and does not change the character thereof.

Weapon means any gun, pistol, revolver, sling shot, shotgun, sand club, metal knuckles, daggers, dirk, bowie knife, razor, air rifle, air gun, BB gun, spring gun, bow and arrow, switch blade, firearm, or any similar device for the propulsion of shot or other metal pellet by whatever means, and any other dangerous or deadly weapon or instrument.

Wedding ceremony means the formal activities and observations during which people are united in marriage. A wedding ceremony typically involves an exchange of vows, presentation of a gift, and a public proclamation of marriage by an authority figure or leader. Music, poetry, or readings from religious texts or literature are also commonly incorporated into the ceremony.

Wedding reception means a party held after the completion of a marriage ceremony. A wedding reception is held usually as hospitality for those who have attended the wedding and typically occurs in a different venue than the wedding itself.

Wetland means a surface water feature classified as a wetland under current state and federal law. Wetlands are low areas permanently or seasonally covered with shallow water, referred to generally as marshes, swamps, bogs, wet meadows, sloughs or intermittent lakes.

Wholesaling means the selling of goods, equipment, and materials by bulk to another person who, in turn, sells the same to customers.

Wind generator means a machine which generates power from the wind and is extended from a horizontal shaft.

Wine means the beverage made from condensed grape must or from other agricultural products other than sound, ripe grapes; imitation wine; compounds sold as wine; vermouth; cider; perry and sake; in each instance containing not less than seven percent nor more than 24 percent alcohol by volume.

Wireless communication facility means cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications located or installed on or near a tower or antenna support structure, but not including a satellite earth station antenna (satellite dish) seven feet or less in diameter.

Wireless communications tower means a self-supporting monopole, poles, or lattice structure constructed at normal grade and extending into the air at least 20 feet and used

to support wireless communications facilities.

Written means any representation of words, letters, or figures, whether by printing or otherwise.

Yard means the open space on an occupied lot which is not covered by any structure.

Yard, front, means a yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.

Yard, rear, means a yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.

Yard, required, means a yard area which may not be built on or covered by structures because of the dimensional setbacks for the structures within the zoning district.

Yard, side, means a yard between the sideline of the lot and the nearest building line.

Yard waste means uncontaminated leaves and grass clippings uncontaminated with foreign objects, such as tree trimmings or brush.

Year means a calendar year, unless otherwise expressed.

Yearly surface water management revenue means the estimated yearly expenditures for planning and inventories, capital expenditures, personnel and equipment, and operation of the surface water utility, in accordance with established city policy. The surface water management revenue and resulting surface water management fees shall be reviewed yearly by the city council.

Zoning district means an area or areas within the city in which the regulations and requirements of this Code are uniform.

(Code 1997, §§ 150, 550.02, 810.02, 900.02, 1105.01, 1110.09, 1320.01, 1320.23, 1340.01, 1340.06, 1345.02, 1355.01, 1395.02; Code 2007, § 11.01; Ord. No. 97-17, 9-16-1997; Ord. No. 97-24, 1-21-1998; Ord. No. 97-30, 5-20-1998; Ord. of 2-15-2000; Ord. No. 9757, 7-18-2000; Ord. No. 9759, 8-15-2000; Ord. No. 9761, 9-5-2000; Ord. No. 97-72; Ord. No. 97-80, 5-5-2001; Ord. No. 97-87, 10-2-2001; Ord. No. 97-90, 10-2-2001; Ord. No. 97-89, 11-20-2001; Ord. No. 97-103, 3-19-2002; Ord. No. 97-106, 4-26-2002; Ord. No. 97-116, 4-1-2003; Ord. No. 97-122, 7-15-2003; Ord. No. 97-134, 7-6-2004; Ord. No. 91-137, 8-4-2004; Ord. No. 97-139, 9-7-2004; Ord. No. 97-140, 9-7-2004; Ord. No. 97-169, 5-2-2006; Ord. No. 97-186, 11-8-2006; Ord. No. 97-164, 12-20-2006; Ord. No. 97-199, 11-5-2007; Ord. No. 08-006, 6-17-2008; Ord. No. 08-007, 6-17-2008; Ord. No. 08-007.1, 6-17-2008; Ord. No. 08-008, 8-19-2008; Ord. No. 08-010, 11-18-2008; Ord. No. 08-015, 7-21-2009; Ord. No. 08-017, 10-6-2009; Ord. No. 08-019, 11-4-2009; Ord. No. 08-023, 1-26-2010; Ord. No. 08-025, 6-1-2010; Ord. No. 08-026, 7-6-2010; Ord. No. 08-031-A, 10-5-2010; Ord. No. 08-032, 10-19-2010; Ord. No. 08-040, 4-19-2011; Ord. No.

08-042, 5-3-2011; Ord. No. 08-047, 7-5-2011; Ord. No. 2012-59, 6-5-2012; Ord. No. 08-082, 6-18-2013; Ord. No. 08-107, 5-6-2014; Ord. No. 08-110, 5-20-2014; Ord. No. 08-108, 6-17-2014; Ord. No. 08-135, 4-27-2016; Ord. No. 08-138, 6-21-2016; Ord. No. 08-168, 3-21-2017; Ord. No. 08-230, § 3, 11-5-2019; Ord. No. 08-245, § 1, 2021)

CHAPTER 1.12 FINANCE

1.12.010 General Fund

1.12.020 Other Funds

1.12.030 Fees

1.12.040 Current Services; Personal Liability; Special Assessments

1.12.050 Charges For Emergency Services; Collection; Collection Of Unpaid Service Charges And Fees

1.12.010 General Fund

A general fund shall be maintained into which shall be placed or credited all monies received not otherwise appropriated and from which shall be paid all expenses and disbursements not otherwise provided for.

(Code 1997, § 200.04; Code 2007, § 30.02)

1.12.020 Other Funds

The city council may create by resolution and maintain the other funds as they desire.

(Code 1997, § 200.05; Code 2007, § 30.03)

1.12.030 Fees

- (a) *Fees; generally.* The fee for any license, permit, or application required under this Code will be set from time to time by ordinance of the city council and will be attached hereto as appendix A. This amount will be paid by the applicant at the time the application is submitted to the clerk. All fees paid are nonrefundable. Rejection of the application by the city council will not entitle the applicant to a refund of all or any part of the fee.
- (b) *Surcharge.* In addition to the permit fees required, the applicant shall pay a surcharge to the state department of administration as prescribed by M.S.A. § 326B.148, as it may be amended from time to time.
- (c) *Animal license fees.*
 - (1) Dog license;
 - (2) Dog impound;
 - (3) Cat impound;

- (4) Additional fee for each repeated impounding within one year; and
 - (5) Duplicate license certificate or tag.
- (d) *Liquor license; intoxicating and 3.2 percent malt liquor.* Any application to the city for an intoxicating liquor license or 3.2 percent malt liquor license must be accompanied by an application fee. The amount of the fee will be set from time to time by resolution of the council. Fees will be reviewed by the council on a yearly basis and may be revised. Rejection of the application by the council will not entitle the applicant to a refund of all or any part of the fee.
- (1) Club on-sale intoxicating;
 - (2) Off-sale intoxicating;
 - (3) Off-sale 3.2 percent malt liquor;
 - (4) On-sale intoxicating;
 - (5) On-sale investigation;
 - (6) On-sale 3.2 percent malt liquor;
 - (7) On-sale Sunday intoxicating;
 - (8) Temporary 3.2 percent malt liquor; and
 - (9) Wine license.
- (e) *Zoning and platting.* Any application to the city for the subdivision or platting of land must be accompanied by an application fee. The fee will be set from time to time by resolution of the council. Fees will be reviewed by the council on a yearly basis and may be revised. Rejection of the application by the council will not entitle the applicant to a refund of all or any part of the fee.
- (1) Comprehensive plan amendments;
 - (2) Conditional use permit (new or amended);
 - (3) Manufactured home parks;
 - (4) Mining permit:
 - a. Bond; and
 - b. Inspection fee;
 - (5) Minor subdivision - park dedication fee;
 - (6) Platting - park dedication fee;
 - (7) Restrictive soils and wetland protection and preservation overlay districts; floodplain management permits;

- (8) Shoreland permits;
 - (9) Variances and appeals; and
 - (10) Zoning district amendments (rezonings).
- (f) *Other fees.* Any application to the city for a culvert, private road permit, private use of city-owned facility permit, or for the vacation of a street, alley, or public easement must be accompanied by an application fee. The amount of the fee will be set from time to time by resolution of the council. Fees will be reviewed by the council on a yearly basis and may be revised. Rejection of the application by the council will not entitle the applicant to a refund of all or any part of the fee.
- (1) Culverts;
 - (2) Private road permits;
 - (3) Private use of city-owned facilities; and
 - (4) Vacation of street, alley, or public easement.
- (g) *Escrow fee.* Any application to the city may require an escrow of funds to cover the cost of the city engineer, city planner, or city attorney in reviewing the application. The amount of escrow will be set from time to time by resolution of the council. Escrow fees will be reviewed by the council on a yearly basis and may be revised. Rejection of the application by the council will not entitle the applicant to a refund, except for the amount that may exceed the cost to review the application.

(Code 1997, §§ 105.01, 105.03--105.08; Code 2007, § 11.02)

1.12.040 Current Services; Personal Liability; Special Assessments

- (a) *Authority.* This section is adopted pursuant to M.S.A. § 429.101.
- (b) *Application.* This section applies to the following city services:
- (1) Snow, ice, or rubbish removal from sidewalks;
 - (2) The repair of sidewalks and alleys;
 - (3) Weed elimination from streets or private property;
 - (4) Removal or elimination of public health or safety hazards from private property, excluding any structure included under the provisions of M.S.A. §§ 463.15 to 463.26;
 - (5) Installation or repair of water service lines, street sprinkling or other dust treatment of streets;
 - (6) The trimming and care of trees and the removal of unsound trees from a

street;

- (7) The treatment and removal of insect infested or diseased trees on private property;
 - (8) The operation of a street lighting system;
 - (9) The operation and maintenance of a fire protection system;
 - (10) The operation and maintenance of a pedestrian skyway system;
 - (11) Inspections relating to a city housing maintenance code violation;
 - (12) The recovery of any disbursements under M.S.A. § 504B.445, subd. 4, clause (5), including disbursements for payment of utility bills and other services, even if provided by a third party, necessary to remedy violations as described in M.S.A. § 504B.445, subd. 4, clause (2); and
 - (13) The recovery of delinquent vacant building registration fees under a city program designed to identify and register vacant buildings.
- (c) *Personal liability.* Except as otherwise provided by law, the owner of property on which or adjacent to which a current service has been performed under this section, is personally liable for the cost of the service. As soon as the service has been completed and the cost is determined, the finance director or other designated city official will prepare a bill and mail it to the owner and thereupon the amount will be due and payable in the office of the finance director.
- (d) *Assessment.* On or before September 15 of each year, the finance director will list the total unpaid charges for current services against each separate lot or parcel to which they are attributable to under this section. The city council may then levy the unpaid charges against the property as a special assessment under M.S.A. § 429.101 and other pertinent statutes, for certification to the county auditor, and collection along with current taxes the following year or in annual installments, not exceeding ten, as the council determines.

(Ord. No. 08-203, § 1(11.02), 3-20-2018)

1.12.050 Charges For Emergency Services; Collection; Collection Of Unpaid Service Charges And Fees

- (a) *Authority.* This section is adopted pursuant to M.S.A. §§ 415.01, 366.011, and 366.012.
- (b) *Charges for emergency services; collection.*
- (1) The city may impose a reasonable service charge for emergency services, including fire, rescue, medical, and related services provided by the city or contracted for by the city. If the service charge remains unpaid

for 30 days after a notice of delinquency is sent to the recipient of the service or the recipient's representative or estate, the city or its contractor on behalf of the city may use any lawful means allowed to a private party for collection of an unsecured delinquent debt. The city may also use the authority of subsection (c) of this section to collect unpaid service charges of this kind from delinquent recipients of services who are owners of taxable property in the city, or areas served by the city for emergency services.

- (2) The powers conferred by this section are in addition and supplemental to the powers conferred by any other law for a city to impose a service charge or assessment for a service provided by the city or contracted for by the city.

(c) *Collection of unpaid service charges and fees.* If the city is authorized to impose a service charge or fee on the owner, lessee, or occupant of property, or any of them, for a governmental service provided by the city, the city may certify to the county auditor, on or before October 15 for each year, any unpaid service charges or fees which shall then be collected together with property taxes levied against the property. A charge or fee may be certified to the auditor only if, on or before September 15, the city has given written notice to the property owner of its intention to certify the charge or fee to the auditor. The service charges or fees shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. This section is in addition to any other law authorizing the collection of unpaid costs and service charges or fees.

(Ord. No. 08-203, § 2(11.03), 3-20-2018)

TITLE 3 ADMINISTRATION

CHAPTER 3.04 GENERAL PROVISIONS

CHAPTER 3.08 CITY OFFICIALS

CHAPTER 3.12 CITY ORGANIZATIONS

CHAPTER 3.16 EMERGENCY MANAGEMENT

CHAPTER 3.04 GENERAL PROVISIONS

3.04-I IN GENERAL

3.04-II ELECTIONS

3.04-I IN GENERAL

3.04.010 Hearings

3.04.020 Code Of Ethics

3.04.010 Hearings

- (a) *Generally.* Unless otherwise provided in this Code, or by law, every public hearing required by law, ordinance, or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.
- (b) *Notice.* Every hearing shall be preceded by a minimum ten-days' mailed notice to all persons entitled by law, ordinance, or regulation. The notice shall state the time, place, and purpose of the hearing. Failure to give the notice of defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subsection. Every hearing shall be preceded by a minimum of ten-days' published notice in the designated legal newspaper.
- (c) *Conduct of hearing.*
 - (1) At the hearing, each party in interest shall have an opportunity to be heard and to present the evidence as is relevant to the proceeding.
 - (2) The council may adopt rules governing the conduct of hearings, records to be made, and the other matters as it deems necessary.
- (d) *Record.* Upon the disposition of any matter after hearing, the council shall have prepared a written summary of its findings and decisions and enter the summary in the official council minutes.

(Code 1997, § 100.05; Code 2007, § 30.01)

3.04.020 Code Of Ethics

Any member of the council, city employee, or members of duly appointed boards and

commissions who, through employment, family relationship up to and including the fourth degree of relationship pursuant to the civil law system, or direct property ownership, or otherwise, will be directly or indirectly benefitted by a city action, shall make known that interest to the council and shall refrain from voting upon and otherwise participating in the decision-making process. Any councilmember, board, or commission member who willfully conceals their interest as described in this section shall be guilty of a misdemeanor.

(Code 1997, § 200.06; Code 2007, § 30.04)

3.04-II ELECTIONS

[3.04.030 Registration System](#)

[3.04.040 Voters Must Be Registered](#)

[3.04.050 Date Of Election](#)

3.04.030 Registration System

The system for the permanent registration of voters provided by M.S.A. ch. 201, as it may be amended from time to time, is, by this section, adopted and made part of this section by reference as if fully set forth in this section.

(Code 1997, § 205.01; Code 2007, § 30.15)

3.04.040 Voters Must Be Registered

No person shall be permitted to vote at any election in the city unless that person is registered as provided by state statutes.

(Code 1997, § 205.02; Code 2007, § 30.16)

3.04.050 Date Of Election

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

(Code 1997, § 205.03; Code 2007, § 30.17)

CHAPTER 3.08 CITY OFFICIALS

[3.08-I CITY COUNCIL](#)

[3.08-II CITY ADMINISTRATOR](#)

3.08-I CITY COUNCIL

[3.08.010 Meetings](#)

[3.08.020 Presiding Officer](#)

[3.08.030 Minutes](#)

[3.08.040 Order Of Business At Regular Meetings](#)

[3.08.050 Voting](#)

[3.08.060 Ordinances, Resolutions, Motions, Petitions, Proclamations And Communications](#)

[3.08.070 Suspension Or Amendment Of Rules](#)

[3.08.080 Salaries Of Mayor And Councilmembers](#)

[3.08.090 Payment Of Salaries](#)

[3.08.100 Council To Act As Board Of Adjustment And Appeals](#)

[3.08.110 Terms Of Office](#)

3.08.010 Meetings

(a) *Procedure.*

- (1) *Authority.* City councils are authorized to adopt rules of procedure and provide for order at their meetings.
- (2) *Parliamentary procedure.* Except as specifically provided under statute or these parts, the most current version of the Robert's Rules of Order Revised governs any question of parliamentary procedure that arises at a city meeting.

(b) *Purpose.* The purpose of this policy on city council meetings is to set the groundwork for orderly and respectful communications between and among councilmembers, city staff, and citizens to promote the efficient working of the public's business at city council meetings.

(c) *Regular meetings.* Except as provided herein, regular meetings shall be held at city hall beginning at 7:00 p.m. on the first and third Tuesdays of each month. The city council may cancel regular council meetings by adopting the appropriate motion at any duly called council meeting. The city council may change the date, time, and/or place of a regular meeting by adopting the appropriate motion at any duly called council meeting and by posting a written notice of the date, time, and place of the rescheduled meeting on the city bulletin board and at the main entrance to the city hall at least three days before the date of the rescheduled regular meeting.

- (1) *Quorum.* A simple majority (three) of the council shall constitute a quorum for the valid transaction of any scheduled business to come before the council.
- (2) *Location.* All meetings, including special, recessed, closed, and continued meetings, shall be held in the city council chambers, located at city hall, unless otherwise designated, pursuant to M.S.A. § 13D.04, subd. 2.
- (3) *Schedule.* A schedule of regular meetings shall be kept on file with the city clerk.

(4) *Recessed or continued meetings.* When a meeting is recessed or continued, the presiding officer shall state the time and place for the next meeting to occur pursuant to M.S.A. § 13D.04, subd. 4. The time and place shall also be noted in the minutes. If the time and place is stated and noted in the minutes, no additional notice of the meeting is required, unless otherwise required by law. However, if the time and place is not stated and noted as required herein, compliance with the notice procedures for a special meeting, as defined in this section, shall be required.

(d) *Open Meeting Law.* The Minnesota Open Meeting Law (OML), M.S.A. ch. 13D, generally requires that all meetings of public bodies be open to the public.

(1) *Principles.* The presumption of openness in the OML serves three basic principles:

- a. To prohibit actions from being taken at a secret meeting, where it is impossible for the interested public to become fully informed concerning the decisions of public bodies, or to detect improper influences;
- b. To ensure the public's right to be informed; and
- c. To afford the interested public an opportunity to present its views to the public body on matters of public interest.

(2) The city council views providing and encouraging citizen access to city meetings as one of its most important duties. As a result of this principle, all council and committee meetings, including special meetings, with the exception of closed meetings, as required by M.S.A. ch. 13D, shall be open to the public.

(3) In calculating the number of days for providing notice under the OML, the first day that the notice is given is not counted, but the last day is counted. If the last day is a Saturday, Sunday, or legal holiday, that day is omitted from the calculation and the day following the Saturday, Sunday, or legal holiday is considered the last day.

(4) In keeping with the intent of the OML, councilmembers shall not use any form of communications technology, such as text messaging or email, to communicate with another person during a public meeting in a manner that is hidden or shielded from public view.

(5) Pursuant to M.S.A. § 13D.01, subd. 6, at least one copy of the written materials made available to the council at or before the meeting shall also be made available for inspection by the public, excluding any non-public data, attorney-client privileged data, or materials related to agenda items of closed meetings, or anything else otherwise deemed not public by any

applicable law.

- (e) *Special meetings.* Special meetings may be called by the mayor or by any two councilmembers filing a written notice with the city administrator. At least three days prior to the date of the special meeting, the city administrator shall provide notice to all members of the council and to each person who has filed a written request for notice of special meetings, and shall post the notice on the city bulletin board and at the main entrance to city hall. The notice shall indicate the date, time, place, and purpose of the special meeting. If matters not directly related to the purpose of the special meeting are discussed or acted upon at the special meeting, the minutes of the special meeting shall include a specific description of the matters. Days shall be counted as provided in subsection (d)(3) of this section. Notice to the public of special meetings must be given pursuant to M.S.A. § 13D.04, subd. 2.
- (f) *Closed meetings.* The OML allows or requires some meetings to be closed to the public for certain defined purposes. When a meeting is closed, the presiding officer at the meeting shall state for the record the reason for closing the meeting and cite the specific provision of law allowing or requiring the meeting to be closed. The presiding officer shall also ensure that meetings are recorded, if required by law.
- (g) *Emergency meetings.* An emergency meeting is a special meeting called by the mayor or any two councilmembers because of circumstances that, in the judgment of the mayor or any two councilmembers, require immediate consideration by the council. The person or persons who call the emergency meeting shall make a good faith effort to contact all councilmembers and, as soon as reasonably practicable after notice has been given to councilmembers, all members of the news media who have filed a written request for notice of emergency meetings if the request includes the news media's telephone number. The notice shall include the date, time, place, and purpose of the emergency meeting. If matters not directly related to the emergency meeting are discussed at an emergency meeting, the minutes of the emergency meeting shall include a specific description of the matters.
- (h) *Business conducted at special or emergency meetings.* No business shall be transacted at special or emergency meetings unless the business shall have been specified, in the notice, without the consent of all of the members of the council present. Any member present at any special or emergency meeting who fails to object and have their objections entered in the minutes of the special or emergency meeting will be conclusively presumed to have consented to the transaction of all business transacted at the special or emergency meeting and no objection may thereafter be raised by a councilmember that the notice of the special or emergency meeting was defective.
- (i) *Initial meeting.* At the first regular council meeting in January of each year, the council shall:

- (1) Appoint an acting mayor, who shall act as mayor in the mayor's absence, pursuant to M.S.A. § 412.121;
 - (2) Select one official newspaper pursuant to M.S.A. § 412.831;
 - (3) Select an official depository for city funds. This must be done within 30 days of the date of the city's fiscal year pursuant to M.S.A. §§ 427.01, 427.02, 118A.02, subd. 1, and 427.09;
 - (4) Review the council's bylaws and make any needed changes;
 - (5) Assign committee duties to members. All assignments of councilmembers to serve on city boards, commissions, and committees shall be by a majority vote of a quorum of a duly called meeting, unless otherwise provided by law;
 - (6) Approve official bonds that have been filed with the clerk;
 - (7) Appoint a city attorney; and
 - (8) Appoint a city engineer.
- (j) *Public meetings.* All council meetings, including special and adjourned meetings and meetings of council committees, shall be conducted in accordance with the Minnesota Open Meeting Law.
- (k) *Ground rules.* Each councilmember shall abide by the following ground rules for interaction with each other and with members of the public at council meetings. All councilmembers shall assist the presiding officer in preserving order and decorum and in providing for the efficient operation of the meeting. Council meetings shall be conducted in a courteous manner that recognizes the validity of differing viewpoints and promotes the ideal of respectful democratic discussion and debate that is free of insult, slander, and personal attacks or threats.
- (1) *Respect others.* Councilmembers should:
 - a. Respect each other and the process;
 - b. Assume each councilmember is being honest and genuine in the expression of his views;
 - c. Not shame or blame others;
 - d. Not talk about people who are not present; and
 - e. Respect residents of the city and city staff.
 - (2) *Listen.* Councilmembers should:
 - a. Not interrupt while others are speaking;
 - b. Ask clarifying not interrogating questions;

- c. Use "I" statements not "You" statements;
- d. Discuss and debate ideas in a civil manner;
- e. Be respectful of the ideas of others even if they don't agree with your ideas; and
- f. Keep side conversations to a minimum.

(3) *Accountability*. Councilmembers should:

- a. Participate to the best of their ability;
- b. Be responsible for making sure all voices are heard;
- c. Be accountable for what they do and say;
- d. Hold each other accountable in a civil way;
- e. Be responsible for their part of a problem or issue;
- f. Be accountable for the use of information by not misusing information or by providing incorrect information; and
- g. Be responsible for reviewing agenda items and supporting information.

(4) *Take risks*. Councilmembers should:

- a. Take risks, be authentic and speak truthfully; and
- b. Not be hostile or harassing toward others for taking risks.

(5) *Be open*. Councilmembers should:

- a. Be open to other's stories and realities;
- b. Be open to partially-formed ideas;
- c. Learn from mistakes;
- d. Be open to a change of heart and mind; and
- e. Not operate from fear.

(6) *Personal reaction*. Councilmembers should not take things personally, and focus on the ideas being expressed, not the person expressing the ideas.

(7) *General rules of decorum*. To effectuate the following ground rules, all councilmembers shall conduct themselves at all times in a manner consistent with the following:

- a. No councilmember shall engage in private conversation or pass private messages while in the chamber in a manner so as to interrupt the proceedings of the council;
- b. No councilmember shall leave his seat or make any noise or disturbance while a vote is being taken and until the result of the vote is announced;
- c. No councilmember shall use profane or obscene words or gestures, or unparliamentary language, or use language that threatens harm or violence toward another person at any time;
- d. No councilmember shall speak on any subject other than the subject in debate;
- e. No councilmember shall speak without being recognized by the presiding officer, nor shall any councilmember interrupt the speech of another councilmember;
- f. No councilmember shall disobey the council's Rules of Order and Procedure, as adopted, or a decision of the presiding officer on questions of order or practice or upon the interpretation of the rules of council;
- g. No councilmember shall engage in disorderly conduct that disturbs or disrupts the orderly conduct of any meeting; and
- h. No councilmember shall engage in conduct which delays or interrupts the proceedings or which hinders honest, respectful discussion and debate.

(Code 1997, § 200.01; Code 2007, § 31.01; Ord. No. 97-201, 11-20-2007; Ord. No. 08-133, 4-5-2016; Ord. No. 08-150, 8-16-2016)

3.08.020 Presiding Officer

The mayor, or in the mayor's absence the acting mayor, shall preside at all meetings of the council.

- (a) *Role of the presiding officer.* The presiding officer shall preserve order, enforce the council Rules of Order and Procedure, as adopted, and determine, without debate, all questions of procedure and order, subject to the final decision of the council on appeal as provided in this section. The presiding officer shall determine which member has the right to speak and may move matters to a vote once the officer has determined that all members have spoken. The presiding officer may determine whether a motion or proposed amendment is in order and may call members to order. Except as otherwise provided by statute or by the

provisions of this chapter, the proceedings of the council shall be conducted in accordance with the latest edition of Roberts Rules of Order.

- (b) *Adjourning a meeting.* If considered necessary, because of grave disorder as determined by the presiding officer, the presiding officer may adjourn or continue any meeting to another time or suspend the meeting for a specified period of time.
- (c) *Designation of a sergeant-at-arms.* The presiding officer may request that local law enforcement designate a member to serve as a sergeant-at-arms at council meetings. The sergeant-at-arms shall carry out all orders or instructions given by the presiding officer for the purpose of maintaining order and decorum at meetings.
- (d) *Motions and voting.* The presiding officer may make motions, second motion, speak on any questions, and vote on any matter properly before the council.
- (e) *Absences of presiding officer.* In the absence of the mayor, the acting mayor shall preside. In the absence of both the mayor and the acting mayor, the city clerk/administrator shall call the meeting to order. The first order of business shall be to select a presiding officer for the meeting from the members present. The city clerk/administrator shall preside until the councilmembers present choose a member to act as presiding officer.
- (f) *Appeals and ruling of the presiding officer.* Any member of the council may appeal to the full council a ruling on order or procedure made by the presiding officer.
- (g) *Procedure for appeals.* An appeal is made by motion. No second is needed for the motion of appeal. The member making the motion may speak once solely on the question involved, and the presiding officer may speak once solely to explain their ruling, but no other councilmember may participate in the discussion.
 - (1) Once both the maker of the motion and the presiding officer has spoken, the matter must be voted upon by the council as a whole.
 - (2) The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.
- (h) *Temporary designation of a presiding officer.* The presiding officer may choose to designate a temporary presiding officer before participating in debate on a given matter. The presiding officer shall resume presiding as soon as action on the matter is concluded.

(Code 1997, § 200.01; Code 2007, § 31.02; Ord. No. 97-201, 11-20-2007; Ord. No. 08-133, 4-5-2016; Ord. No. 08-143, 7-5-2016; Ord. No. 08-150, 8-16-2016)

3.08.030 Minutes

(a) Minutes constitute a vital record of the city and are the best means of preserving council intent, findings of fact, and action. Pursuant to M.S.A. § 412.151, the city clerk must keep a minute book. The minute book shall contain, at a minimum, the following:

- (1) The councilmembers who are present;
- (2) The type of meeting (regular, special, continued, closed);
- (3) Date and place of the meeting;
- (4) Time the meeting was called to order;
- (5) Approval of minutes of the previous meeting with any corrections;
- (6) The members who make or second any motions;
- (7) A record of all members and their vote for any roll call votes;
- (8) The subject matter of all proposed resolutions or ordinances;
- (9) Whether any resolution or ordinance is approved or disapproved by vote of the council;
- (10) The votes of each member voting, including the mayor, and the votes of any member not voting (e.g., abstentions, including reason for abstention if given, not present);
- (11) A statement of the findings of fact and an explanation of council action, including specific reasons for approval and disapproval of specific resolutions or ordinances, on all land use and licensing matters;
- (12) Listing of all bills allowed or approved for payment, noting the recipient, purpose, and amount;
- (13) Approval of hourly rates paid for services provided, mileage rates, meal reimbursement amounts, and per diem amounts;
- (14) A list of all transfers of funds;
- (15) Authorizations and directions to invest excess funds, and information on investment redemptions and maturities;
- (16) The identity of any party to whom a contract was awarded;
- (17) Appointments of representatives to committees or outside organizations; and
- (18) The name of all citizens appearing before the council during the public comment period along with a brief summary of the subject matter of their comments.

(b) The minutes of each meeting shall be typed and signed by the

clerk/administrator. Copies of the minutes shall be included in the agendas for the council meeting.

(c) Meeting minutes shall be considered and approved at a future meeting.

- (1) Meeting minutes do not need to be read aloud;
- (2) The presiding officer shall call for any corrections;
- (3) If there is no objection to a correction, it will be made without a vote of the council;
- (4) If there is an objection, the council shall vote upon the addition or correction;
- (5) Council shall take formal action by vote to approve the minutes as distributed, with any corrections or amendments made as described herein; and
- (6) Minutes shall be published as required by M.S.A. §§ 412.191, 331A.08, subd. 3, and 331A.01, subd. 10.

(Code 1997, § 200.01; Code 2007, § 31.03; Ord. No. 08-133, 4-5-2016; Ord. No. 08-150, 8-16-2016)

3.08.040 Order Of Business At Regular Meetings

(a) *Order established.*

- (1) *Generally.* Each meeting of the council shall convene at the time and place appointed for the meeting. Council business shall be conducted in the order determined by the council at its first annual meeting or as thereafter amended by the majority vote of the council.
- (2) *Order of business.* The standard order of business for council meetings shall be the following:
 - a. Call to order/Pledge of Allegiance;
 - b. Approval of agenda;
 - c. Approval of minutes from past meetings;
 - d. Public comment;
 - e. Presentations;
 - f. Consent agenda;
 - g. Regular agenda;
 - h. Report of the council. Council reports will not be part of the order

of business for meetings falling three months before a local election;

- i. Reports from city staff; and
- j. Adjourn.

(b) *Agenda*. An agenda will be prepared for all regular council meetings by the staff or recommendation of the council at a work session. Members of the public wishing to place an item on the agenda must do so by contacting city staff or councilmembers, or by speaking during the public comment period. No member of the general public may add any items to the agenda.

(1) *Special meetings*. When a special meeting is called pursuant to applicable law, the agenda for the special meeting must be included in the request for the meeting and in the publication of the notice of the meeting pursuant to M.S.A. § 13D.04, subd. 2.

(2) *Agenda procedures*. Any staff member, the mayor or two councilmembers wishing to add an item to any agenda pursuant to this section shall do so by complying with the following:

- a. All requests from council to place an item on the posted agenda must be received by the city clerk/administrator by 10:00 a.m. 11 days prior to the next council work session meeting. For a regularly scheduled Tuesday work session, the deadline for agenda items would be 10:00 a.m. on the Friday preceding packet completion. All requests from the mayor or council must first be reviewed at a council work session before being placed on the agenda of a regular meeting.
- b. All requests to place an item on the posted agenda must be on the form prescribed by the city clerk/administrator. The form shall be completed with the goal of clearly describing the subject matter to be considered by the council and any action requested or required. Supporting information may be attached to the form as necessary.
- c. All requests to place an item on the posted agenda by city staff or councilmembers must be reviewed by the city clerk/administrator or their designee prior to being included in the agenda.
- d. The agenda, along with all related information materials, will be provided to all city councilmembers and the city attorney at least four days prior to the council meeting for which it applies. For a regularly scheduled Tuesday meeting, the packet will be provided by 5:00 p.m. the Thursday preceding.

(c) *Consent agenda.* A consent agenda may be used to improve the efficiency of meetings. The consent agenda allows the council to consider several items at one time. Only one motion is necessary to approve all items on the consent agenda.

- (1) Items that require findings of fact or an explanation of council actions, such as land use matters and the consideration of licensing requests, should not be placed on the consent agenda.
- (2) An item on the consent agenda may be removed from such agenda for full consideration by the council upon request made by any member of the council. Items removed from the consent agenda will be placed on the regular agenda for discussion and consideration.

(d) *Presentation, discussion and agenda item decisions.* The following is the order of business for presenting and discussing items on council agendas:

- (1) Introduction of item;
- (2) Report by staff or other presenter;
- (3) Questions from councilmembers to the presenter in a round robin manner. The presiding officer will facilitate the round robin process by asking each individual councilmember for one question and allowing for a response to the individual question. Then the presiding officer will ask the next councilmember, in sequence, until all councilmembers have asked and received responses to a question. No councilmember shall take more than three minutes to ask a question or comment on an item which is being presented before another councilmember has a turn to question and comment on the same item;
- (4) Receive questions/comments from the applicant/requesting party to the council, and allow each councilmember to respond in the round robin process;
- (5) Allow questions from councilmembers to the applicant/requesting party, if applicable, using the round robin process;
- (6) Allow questions/comments from the public to councilmembers. Each member of the public shall state his comments in six minutes. Council shall not interrupt or interact until all public comments are completed;
- (7) At the conclusion of the round robin process, the presiding officer calls for a motion or discussion among the council. Discussion on any presentation shall be kept to a minimum, and each councilmember shall only speak twice on the issue. This action is not an indication that the motion on the table is the motion that will be approved in its current form. It is purely for discussion purposes;
- (8) Discussion among councilmembers using the round robin process with

each member speaking no more than twice on a motion;

(9) Action by the council on the motion.

(e) *Meeting schedule.*

- (1) Each meeting of the council shall convene at the time and place appointed. All public hearings shall commence at the advertised time.
- (2) Council business shall be conducted in the order of the prepared agenda, unless an alteration is approved by a majority of the council.
- (3) The last item on the agenda will be commenced no later than 12:00 midnight.
- (4) If all business has not been completed by 12:00 midnight, the meeting shall be continued to another date and time following the notice provisions contained herein.

(f) *Public participation and comment at council meetings.* Council meetings are the forum for the council to conduct the city's business. While council meetings are open to the public pursuant to the Minnesota Open Meeting Law, they are not a forum for public expression. As such, members of the public are not allowed to participate in council discussion and debate without a specific invitation and/or formal recognition by the presiding officer. Members of the public shall not applaud, engage in conversation, or engage in other behavior through words or actions that may disrupt the proceedings of the council.

(g) *Members of the public shall follow the direction of the presiding officer.* Members of the public who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. After such warning, if the conduct continues, the presiding officer may ask the member of the public to leave the meeting room. If the member of the public refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the person through any lawful means. In emergency situations, or where the conduct is an egregious threat to the safety of the public or the council, a warning is not necessary before the sergeant-at-arms is directed to remove the person.

(h) *Public comment period.* A limited forum for members of the public to speak with the council is provided on each agenda. Public comments during the public comment period are subject to the following limitations:

- (1) Speakers must be recognized by the presiding officer before speaking and are limited to six minutes for comment;
- (2) When multiple speakers appear to speak on the same topic, comments should not be repetitive. The presiding officer may request speakers to appoint a spokesperson;

- (3) The presiding officer may place a time limit on the public comment period if necessary to allow for the conduct of city business. If there is not sufficient time at the meeting to hear all public comments, the comment period may be deferred to the next regular council meeting or at a continued meeting;
 - (4) Speakers must sign up prior to speaking and provide their name, address, and a brief summary of the subject matter which they wish to address. The sign-up sheet will be available at the start of the city council meeting;
 - (5) Speakers must direct their remarks toward the presiding officer;
 - (6) Speakers shall not use obscene, profane, insulting, or threatening language, nor conduct themselves in a threatening, loud, or boisterous manner that disrupts the conduct of the meeting or the security of the public;
 - (7) Speakers are required to follow the direction of the presiding officer; and
 - (8) The council will generally not respond at the same meeting where an issue is initially raised by a member of the public. Generally, the matter will be referred to staff for further research and possible report or action at a future council meeting. If council responds, council shall not interrupt or interact until all public comments are completed.
- (i) *Public hearings.* Public hearings are sometimes required by law to allow the public to offer input on council decisions. Unlike public comment periods, public hearings allow the public to speak on a matter currently before the council. When public hearings are required by law, notice shall be provided as required by state statute. Public hearings shall be commenced at the time advertised in any notice required by law.
- (1) General procedure for public hearings. The order of business for all public hearings conducted by the council shall be:
 - a. Opening comments by the presiding officer announcing the purpose of the public hearing;
 - b. The presiding officer opens the public hearing portion of the meeting;
 - c. Staff presentation, if any (i.e., administrator/clerk, attorney, engineer, etc.);
 - d. Developer/other presentation, if any;
 - e. Public comment (all individual comments limited to six-minute maximum);
 - f. The clerk/administrator shall make note of any submitted written

testimony; and

g. The presiding officer formally closes the public hearing portion of the meeting.

- (2) Speakers who wish to address the council at a public hearing must follow the same rules as contained herein for public comment periods. The presiding officer may allow more time, where appropriate.
- (3) Speakers may also provide written comments to the council before or at the meeting. Written comments shall be noted and provided to the council and to anyone else as required by law.
- (4) The presiding officer may continue the hearing, if necessary, following the procedures for continuing a meeting contained in this section.
- (5) Council shall not interrupt or interact until all public comments are completed.

(Code 1997, § 200.01; Code 2007, § 31.04; Ord. No. 97-201, 11-20-2007; Ord. No. 08-133, 4-5-2016; Ord. No. 08-143, 7-5-2016; Ord. No. 08-150, 8-16-2016; Ord. No. 08-164, 1-3-2017)

3.08.050 Voting

- (a) The votes of the council will be taken by voice or hand vote. The presiding officer shall announce the results of all votes of the council.
- (b) A clear statement of the matter being voted upon and the names of those voting for and against the matter shall be recorded in the official minutes.
- (c) The presiding officer may ask for a roll call vote to be conducted by the clerk/administrator on any motion of resolution.
- (d) The clerk/administrator may ask for a verification roll call if the vote of a councilmember is not clear on the voice vote.
- (e) A majority vote of the quorum present shall be sufficient for all matters before the council, unless otherwise provided by law.
- (f) Any councilmember may abstain from voting for any reason.
- (g) If any councilmember is present but does not vote, the minutes, as to his name, shall be marked "Present-Not Voting."

(Code 1997, § 200.01; Code 2007, § 31.05; Ord. No. 08-133, 4-5-2016; Ord. No. 08-150, 8-16-2016)

3.08.060 Ordinances, Resolutions, Motions, Petitions, Proclamations And

Communications

- (a) *Signing and publication proof.* Every ordinance and resolution passed by the council shall be in writing and signed by the mayor, attested by the clerk, and filed by the clerk in the ordinance or resolution book. Unless otherwise provided by law, no ordinance shall require more than one reading and all ordinances shall be adopted by a majority vote of councilmembers present at the council meeting. Proof of publication of every ordinance shall be attached and filed with the ordinance.
- (b) *Repeals and amendments.* Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision shall give the number, if any, and the title of the ordinance or Code section number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part shall set forth in full each amended section or subdivision as it will read with the amendment.
- (c) *Mayoral and city proclamations.* Except as otherwise provided by law, all mayoral and city proclamations recognizing events, persons, and official observances shall be adopted by a majority of the councilmembers present and voting at the meeting where such proclamation is presented for adoption.
- (d) *Seating assignments.* Councilmembers shall occupy the chairs assigned to them by the presiding officer, but two councilmembers may exchange seats by joining in a formal request to the presiding officer to do so.

(Code 1997, § 200.01; Code 2007, § 31.06; Ord. No. 08-133, 4-5-2016; Ord. No. 08-150, 8-16-2016)

3.08.070 Suspension Or Amendment Of Rules

The rules of procedure applicable to council meetings may be suspended or amended by two-thirds vote of the councilmembers present and voting, provided that such action is not in violation of state statutes.

(Code 1997, § 200.01; Code 2007, § 31.07; Ord. No. 97-201, 11-20-2007; Ord. No. 08-133, 4-5-2016; Ord. No. 08-150, 8-16-2016)

3.08.080 Salaries Of Mayor And Councilmembers

The mayor and councilmembers shall be paid salaries as determined from time to time by the council and set by ordinance. An ordinance establishing council salaries shall be adopted before a regular city election and shall not be effective until January 1 following such election.

(Code 1997, § 200.01; Code 2007, § 31.08; Ord. No. 08-133, 4-5-2016; Ord. No. 08-150, 8-16-2016)

3.08.090 Payment Of Salaries

The salaries provided by LEC 3.08.010 et seq. shall be paid semi-annually, or more frequently, as directed by the council.

(Code 1997, § 200.01; Code 2007, § 31.09; Ord. No. 08-133, 4-5-2016; Ord. No. 08-150, 8-16-2016)

3.08.100 Council To Act As Board Of Adjustment And Appeals

(a) *Establishment of board of adjustment and appeals.* The council is established as the board of adjustment and appeals. The board of adjustment and appeals shall have the following powers with respect to this section:

- (1) The exclusive power to hear and decide appeals where it is alleged that there is an error in any decision, order, requirement, or determination made by an administrative officer in the enforcement of the zoning code; and
- (2) The appeal shall be filed within five business days from the date that the decision, order, requirement, or determination is made and shall state:
 - a. The particular decision, order, requirement, or determination from which the appeal is taken;
 - b. The name and address of the appellant;
 - c. The grounds for the appeal; and
 - d. The relief requested by the appellant.

(b) *Effect of appeal.* An appeal stays all proceedings in furtherance of the action appealed from unless the board of adjustment and appeals, to whom the appeal is taken, certifies that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property.

(c) *Authority of the board of adjustment and appeals.* The board of adjustment and appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that extent shall have all the powers of the officer from whom the appeal was taken, and may direct the issuance of a permit.

(d) *Hearing procedures.*

- (1) The zoning administrator shall, upon the filing of a notice of appeal, refer the matter to the board of adjustment and appeals and establish a time for the hearing of the matter by the board.
- (2) The zoning administrator shall notify the appellant or applicant, the

chairperson of the planning commission, the building official, the abutting property owners, and in the case of an appeal, the officer from whom the appeal is taken, of the time and place of the hearing. The notice shall be in writing and shall be served on the person by mail, provided the notice shall be mailed at least ten days preceding the date of the hearing.

(e) *Record of findings.*

- (1) The board of adjustment and appeals shall make written findings in any case of an appeal and shall state in the findings the reasons for its decision. The order issued by the board of adjustment and appeals shall include the legal description of the land involved. Any order shall be filed with the zoning administrator, who shall immediately mail a copy of the order, bearing the notation of the filing date, to the appellant or applicant.
- (2) A certified copy of any order issued by the board of adjustment and appeals acting upon any appeal from an decision, order, requirement, or determination of an administrative officer, may be filed with the county recorder or registrar of titles for recording. The filing may be made by the zoning administrator as soon as is reasonably possible after the filing of the order with the zoning administrator.

- (f) *Decision; appeals.* All decisions of the board of adjustment and appeals acting upon an appeal from an order, requirement, decision, or determination by an administrative officer or upon an application for a variance shall be final, except that any aggrieved person may have any decision or order of the board reviewed for an appropriate remedy in district court as provided by law.

(Code 2007, § 31.10; Ord. 97-94, 11-7-2001; Ord. No. 08-133, 4-5-2016; Ord. No. 08-150, 8-16-2016)

3.08.110 Terms Of Office

- (a) *Councilmembers.* Two councilmembers shall be elected for four-year terms at each biannual election.
- (b) *Mayor.* The mayor shall be elected for a four-year term commencing with the regular municipal elections to be held in 2008. The first four-year mayoral term shall commence on January 1, 2009.

(Code 2007, § 31.11; Ord. No. 97-194, 6-19-2007; Ord. No. 08-133, 4-5-2016; Ord. No. 08-150, 8-16-2016)

3.08-II CITY ADMINISTRATOR

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3.08.120 Appointment

- (a) The office and position of city administrator is continued within the city.
- (b) The city administrator shall be appointed by the council and shall serve for an indefinite term. The city administrator shall be chosen on the basis of executive and administrative qualifications, and shall have experience and knowledge in the area of government or business administration.

(Code 1997, § 200.02; Code 2007, § 31.25)

3.08.130 Contract

The city may enter into an employment agreement as it deems necessary to further the purposes of this subchapter.

(Code 1997, § 200.02; Code 2007, § 31.26)

3.08.140 Primary Objective Of Position

The administrator shall be the chief administrative officer for the city and shall:

- (a) Plan and direct the administration of city functions as delegated by the council to ensure efficient municipal services and development in line with council objectives, city ordinances, and state law;
- (b) Advise the council regarding the impact of policy decisions and to represent the interest of the city in matters before other governmental agencies as delegated by the council;
- (c) Supervise and manage the administration of all departments within the city. Operate with considerable discretion in normal administration functions and in implementing policies of the council. Responsible for effectively recommending policies, employee staffing, budgets, code modifications, and public communications where council action is required; and
- (d) Advise council in matters concerning planning, including, but not limited to, zoning, platting, variances, shoreline permitting, conditional use permits, and

subdivisions.

(Code 1997, § 200.02; Code 2007, § 31.27)

3.08.150 Major Areas Of Accountability And Responsibility

The city administrator:

- (a) Serves as chief administrative officer of the city, and is responsible to the council for the proper administration of all the policies of the city;
- (b) Knows and understands the Code and its proper application to specific issues and sees that all laws and ordinances are fully and properly enforced;
- (c) Supervises and manages the administration of all departments, offices, and divisions of the city except as otherwise provided by law and carries out any other responsibilities placed under administrator's jurisdiction by ordinance or by subsequent council action;
- (d) Recommends from time to time the adoption of the measures as may be deemed necessary or expedient for health, safety, and welfare of the community or for the improvement of the administration;
- (e) Works with city commissions coordinating their activities with elected city officials and presenting commission recommendations to the council;
- (f) Stays abreast of developments in the public administrative field and cooperates with governmental units and on matters of mutual interest;
- (g) Supervises and manages the conduct of local elections in accordance with the prescribed laws and regulations;
- (h) Relieves the councilmembers of as much administrative detail, inquiry, and the like as possible so they may devote more of their time to the policy-making responsibilities of their position;
- (i) Coordinates the work of the city's appointed attorney and consulting engineer; and
- (j) Performs the other duties as may be required by the council.

(Code 1997, § 200.02; Code 2007, § 31.28)

3.08.160 Personnel

The city administrator:

- (a) Acts as personnel officer, and is responsible for implementation of city personnel policies with the authority to effectively recommend employment, discipline, or

removal of city employees for council action;

- (b) Develops and issues all administrative rules, regulations, and procedures necessary to ensure the proper functioning of all city departments, offices, and divisions as permitted by law and council approval;
- (c) Prepares and updates job descriptions for all city employees and conducts job performance reviews with employees every six months;
- (d) Reviews all department requests for overtime hours and accepts or rejects them based on needs and budget constraints; and
- (e) Reviews employee time cards on a regular basis.

(Code 1997, § 200.02; Code 2007, § 31.29)

3.08.170 Budget

The city administrator:

- (a) Supervises and manages the preparation of, and submits, an annual budget to the council prior to September 1, and keeps the council advised of the financial condition of the individual departments making recommendations as may, from time to time, be determined desirable and necessary;
- (b) Supervises and manages the effective utilization of city assets and recommends additions or changes to the council;
- (c) Ensures effective management of financial assets. Works with the city finance director to ensure favorable investment of available funds, effective and proper accounting practices, appropriate insurance coverage, and effective financial planning;
- (d) Keeps the council advised as to the future needs of the city and makes recommendations to the council in a five-year capital improvement program reviewed and updated annually; and
- (e) Maintains familiarity with alternate and supplemental sources of revenue, including federal and state aids, loans, grants, and other sources of revenue, and submits recommendations to the council for actions necessary to take advantage of the sources.

(Code 1997, § 200.02; Code 2007, § 31.30)

3.08.180 Meetings

- (a) The administrator attends and participates in discussion at all meetings of the council and other official city bodies; and represents the city at all official or semi-official functions as may be directed by the council; coordinates meetings and

represents the council as directed with other governmental agencies and associations. The administrator is responsible for public notification of all regular and special meetings of the council and is responsible for agenda preparation and council meeting procedures. The administrator is responsible for notification of public hearings.

- (b) The administrator works closely with the council, including performing research on agenda items and other council requests, attending meetings to report on city affairs and problems, presenting recommendations concerning policies and objectives as well as specific actions, and participating in discussions as appropriate of all significant matters. The administrator presents all items which required council action or approval.
- (c) The administrator prepares agendas for council meetings and provides supporting data.

(Code 1997, § 200.02; Code 2007, § 31.31)

3.08.190 Purchasing

The administrator supervises all purchases made by the city in accordance with a council-approved purchasing policy and shall enter into contracts for previously budgeted and council-approved purchases. The administrator shall supervise the solicitation of sealed bids, including public notices, on all purchases when required to do so by state law or the city's purchasing policy.

(Code 1997, § 200.02; Code 2007, § 31.32)

3.08.200 Working Conditions

The administrator shall:

- (a) Work a 40-hour week or equivalent;
- (b) Attend council meetings in evenings; and
- (c) Attend any other evening meetings as needed.

(Code 1997, § 200.02; Code 2007, § 31.33)

3.08.210 Examples Of Performance Criteria

The performance criteria of the city administrator shall include, but not be limited to, the following:

- (a) Policies and programs of the city are readily understood and administered by city personnel;

- (b) Department heads reporting are consistently performing at a maximum level of productivity in carrying out the policies of the council and the city administrator;
- (c) Clear and effective communication lines are consistently maintained throughout city organization; and/or
- (d) The city consistently maintains a positive and high reputation for service among the citizens.

(Code 1997, § 200.02; Code 2007, § 31.34)

CHAPTER 3.12 CITY ORGANIZATIONS

3.12-I BUILDING DEPARTMENT

3.12-II PLANNING COMMISSION

3.12-III FIRE DEPARTMENT

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3.12-V HERITAGE PRESERVATION COMMISSION

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3.12-I BUILDING DEPARTMENT

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3.12.040 Conflict Of Interest

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3.12.060 Right Of Entry

3.12.070 Stop Orders; Red Tags

3.12.080 Occupancy Violations

3.12.090 Liability

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3.12.010 Generally

There is continued in the city a building department which shall be under the jurisdiction of the building official designated by the council; the building official shall report to the city administrator.

(Code 1997, § 200.03; Code 2007, § 32.001)

3.12.020 Powers And Duties Of Building Official

The building official shall be authorized and directed to enforce all the provisions of the state building code and this Code.

(Code 1997, § 200.03; Code 2007, § 32.002)

3.12.030 Inspectors

In accordance with adopted personnel procedures, the city administrator and building official may recommend for approval by the city council any number of inspectors and other employees as shall be needed from time to time in the building department.

(Code 1997, § 200.03; Code 2007, § 32.003)

3.12.040 Conflict Of Interest

Neither the building official nor any inspectors shall have any financial interest in any concern engaged in a business relationship within the city nor engage in any business relationship with the city within the inspector's respective field.

(Code 1997, § 200.03; Code 2007, § 32.004)

3.12.050 Reports And Records

- (a) The building official shall submit a report to the administrator and council, not less than once a year, covering the work of the department during the preceding period.
- (b) The building official shall keep a permanent, accurate account of all fees and other monies collected and received, the names of the persons upon whose account the fees were paid, the date and the amount of monies received, together with the location of the building or premises to which they relate.

(Code 1997, § 200.03; Code 2007, § 32.005)

3.12.060 Right Of Entry

- (a) Upon presentation of proper credentials, the building official or a duly authorized representative may enter at reasonable times any building, structure, or premises in the city to perform any duty imposed upon the building official by this Code.
- (b) No person shall interfere with the building official or a duly authorized representative in the execution of the building official's duties.

(Code 1997, § 200.03; Code 2007, § 32.006)

3.12.070 Stop Orders; Red Tags

- (a) Whenever any building work is being done contrary to the provisions of this Code, the building official may order the work stopped by notice, in writing, served on any persons engaged in the doing, or causing the work to be done, or if no such party can be found on the property, a notice shall be posted on the property in a conspicuous place.
- (b) The persons shall immediately stop work until authorized by the building official

to proceed with the work.

(Code 1997, § 200.03; Code 2007, § 32.007)

3.12.080 Occupancy Violations

- (a) Whenever any structure is being used contrary to the provisions of this Code, the building official may order the use discontinued and the structure or portion of the structure vacated by notice served on any person causing the use to be discontinued.
- (b) The person shall discontinue the use within ten days after receipt of the notice or make the structure or portion of structure comply with the requirements of this Code.

(Code 1997, § 200.03; Code 2007, § 32.008)

3.12.090 Liability

- (a) The building official or any employee charged with the enforcement of this Code, acting in good faith and without malice for the city in the discharge of the employee's duties, shall not render the building official liable personally.
- (b) The building official is relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of building official's duties.
- (c) Any suit brought against the building official or employer, because of the act or omission performed by the building official in the enforcement of any provisions of this Code, shall be defended by the city until final termination of the proceedings.

(Code 1997, § 200.03; Code 2007, § 32.009)

3.12.100 Cooperation Of Other Officials

The building official may request, and shall receive as may be necessary in the discharge of official duties, the assistance and cooperation of the other officials of the city.

(Code 1997, § 200.03; Code 2007, § 32.010)

3.12-II PLANNING COMMISSION

[3.12.110 Establishment](#)

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3.12.110 Establishment

A planning commission is continued in the city.

(Code 1997, § 210.01; Code 2007, § 32.025)

3.12.120 Purpose

The planning commission is established to meet the requirements of state statute; to develop and enforce the comprehensive plan and amendments to the plan, subject to council approval and the requirements of the Municipal Planning Act; and to review and make recommendations on subdivisions, zoning applications, planned unit developments, and site and building plans as provided by ordinance. No expenditures by the commission shall be made unless and until authorized for the purpose by the council.

(Code 1997, § 210.02; Code 2007, § 32.026)

3.12.130 Composition

- (a) *Generally.* The planning commission shall consist of seven voting members and two non-voting alternate members. The voting members shall be appointed for a three-year term so that only one-third of the appointments will expire on December 31 of each year. Voting members may not serve more than two consecutive terms. Appointment to an additional terms will be considered with the available applicant pool. Alternate members shall be appointed to serve until there is a vacancy on the planning commission. The city council shall appoint a first alternate and a second alternate who shall become voting members in the order of their appointment upon a vacancy on the commission.
- (b) *Special appointments.*

- (1) At the discretion of the city council, up to five additional appointments can be made to the planning commission, for each special project, including, but not limited to, Environmental Management, Maintenance Advisory, and the Old Village, to assist with special projects currently in process, or directed by the city council to be studied, drafted, and completed.
- (2) The term of the special appointments shall expire two years from the date of appointment, or upon completion of the special project, whichever is first. Any special appointee may request reappointment if the specific project is not completed in that time.
- (3)
 - a. Special project appointees shall have full voting privileges only on issues specifically related to the special project.
 - b. Full voting privileges for the regular planning commission shall remain consistent with this section.

(Code 1997, § 210.03; Code 2007, § 32.027; Ord. No. 97-67, 1-2-2001; Ord. No. 97-70, 1-16-2001; Ord. No. 97-96, 1-15-2002; Ord. No. 97-147, 2-15-2005; Ord. No. 97-200, 11-5-2007; Ord. No. 08-046, 6-21-2011)

3.12.140 Qualifications

Each member and alternate member shall be a resident of the city. Wherever possible, commission members should represent all geographical areas of the city and a cross-section of the population of the city at the time of appointment.

(Code 1997, § 210.04; Code 2007, § 32.028)

3.12.150 Removal

Any member or alternate member may be removed by a majority vote of the council, for cause. Cause shall include, but not be limited to, having more than three consecutive absences or being absent from more than one-third of the meetings in any one calendar year. The council may consider exceptional circumstances when applying this rule.

(Code 1997, § 210.05; Code 2007, § 32.029; Ord. No. 08-172, 4-18-2017)

3.12.160 Officers

The commission shall elect a chairperson, a vice-chairperson, and a secretary from among its appointed members at the annual meeting each year, for a term of one year. The chairperson shall preside at all meetings of the commission, if present, and shall perform all other duties and functions required by state statute or assigned by the commission or the council. The vice-chairperson shall perform these duties in the absence of the chairperson. If a vacancy occurs in the chairperson's office, the vice-

chairperson shall assume the chairperson's duties for the remainder of the year, and a new vice-chairperson shall be elected by the commission at a special election to be held at the next regularly scheduled commission meeting, after at least two-days' written notice to each commission member. The secretary shall perform those duties assigned by state statute only. A recording secretary shall be appointed by the council to take and keep the minutes and records of the commission.

(Code 1997, § 210.06; Code 2007, § 32.030)

3.12.170 Annual Meetings

- (a) The commission shall hold an annual meeting the second Monday in the month of January in each year.
- (b) The meeting shall be devoted to the election of officers and other business as shall be scheduled.

(Code 1997, § 210.07; Code 2007, § 32.031)

3.12.180 Annual Work Plan

The planning commission shall develop an annual work plan, including a list of projects, points of interaction on projects, programs, and goals for the following year.

(Code 1997, § 210.08; Code 2007, § 32.032; Ord. No. 08-172, 4-18-2017)

3.12.190 Regular Meetings

Regular meetings shall be held in the city hall at 7:00 p.m. on the second and fourth Mondays of each month. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. A regular meeting may be canceled or rescheduled by the commission at a prior meeting or if there are no scheduled agenda items on the Thursday prior to the meeting. All action taken by the commission shall be by the affirmative vote of a majority of the members present.

(Code 1997, § 210.09; Code 2007, § 32.033)

3.12.200 Special Meetings

Special meetings of the commission shall be held in the city hall at a time and place designated or at a public place at a time designated and shall be called by the chairperson. Upon the written request of at least four members, the chairperson shall be required to call a special meeting to be held within seven days of the request. Written notice of the meeting shall be given to all members not less than three working days in advance of the meeting.

(Code 1997, § 210.10; Code 2007, § 32.034)

3.12.210 Quorum

A quorum shall consist of four members.

(Code 1997, § 210.11; Code 2007, § 32.035; Ord. No. 97-14, 9-2-1997; Ord. No. 08-046, 6-21-2011)

3.12.220 Voting

Each member attending any meeting shall be entitled to cast one vote. Voting shall be by voice vote. If any member has a personal interest of any kind in the matter before the commission, the member shall disclose the interest and be disqualified from voting upon the matter. The secretary shall record in the minutes that no vote was cast by that member. Alternate members shall be entitled to cast one vote in the absence of any member. The second alternate shall be entitled to cast one vote in the absence of any two members.

(Code 1997, § 210.12; Code 2007, § 32.036)

3.12.230 Proceedings

At any regular meeting of the commission, the following shall be the regular order of business:

- (a) Roll call;
- (b) Approval of agenda;
- (c) Minutes of the preceding meeting;
- (d) Public hearings as scheduled on the agenda;
- (e) Old and new business as scheduled on the agenda;
- (f) Communications;
- (g) Other; and
- (h) Adjournment.

(Code 1997, § 210.13; Code 2007, § 32.037)

3.12.240 Rules Of Procedure

All meetings of the commission shall be conducted in accordance with the Revised Robert's Rules of Order.

(Code 1997, § 210.14; Code 2007, § 32.038)

3.12.250 Agenda

The chairperson shall cause all items to be considered at any meeting to be placed on a written agenda by the city administrator or an appointed designee. The city administrator, or appointed designee, shall advise the chairperson of any matters the commission must consider by council directive, ordinance, or statute and shall have prepared and supply a written agenda of all meetings to all commission members, the council, and the public no less than four days before each meeting.

(Code 1997, § 210.15; Code 2007, § 32.039)

3.12.260 Records

Each formal action of the commission shall be embodied in full upon the minute book as formal motion or resolution. The minutes of each meeting shall be provided to each member, the council, and the public no more than seven days after the date of each meeting. The recommendations and findings of the commission shall be presented to the council at the next regularly scheduled council meeting. The records of meetings and actions and recommendations shall be transmitted to the city administrator, or appointed designee, for keeping and distribution.

(Code 1997, § 210.16; Code 2007, § 32.040)

3.12.270 Training

Commission members shall be encouraged to avail themselves of training courses offered by the city, the state, and other government and public training agencies and the council shall budget for the reimbursement of expenses incurred in training each year.

(Code 1997, § 210.17; Code 2007, § 32.041)

3.12.280 Duties And Powers Of The Commission; Comprehensive Plan

- (a) *Plan.* The planning commission shall have the powers and duties given city planning agencies generally by law. The commission shall also exercise the duties conferred upon it by this Code. It shall be the purpose of the planning commission to prepare and adopt a comprehensive plan for the physical development of the city, including proposed public buildings, street arrangements and improvements, efficient design of major thoroughfares for moving of traffic, parking facilities, public utilities services, parks and playgrounds, a general land use plan, and other matters relating to the physical development of the city. The plan may be prepared in sections, each of which shall relate to the comprehensive plan program. After the commission has prepared and adopted the comprehensive plan, it shall periodically, but at least every five years, review the comprehensive plan and any ordinances or programs implementing the plan.
- (b) *Means of executing plan.* Upon the adoption of a comprehensive plan or any section, it shall be the concern of the planning commission to recommend to the

council reasonable and practicable means for putting into effect the plan or section in order that the same will serve as a pattern and guide for the orderly physical development of the city and as a basis for judging the timely disbursements of funds to implement the objective. Means of effectuating the plan shall, among other things, consist of a zoning ordinance, subdivision regulations, capital improvement programming and technical review, and recommendations of matters referred to the planning commission by the council.

- (c) *Zoning ordinance.* The planning commission shall review all proposed amendments to the zoning ordinance, take part in public hearings, and make recommendations to the council as may be prescribed by the zoning ordinance.
- (d) *Conditional use permits.*
 - (1) The planning commission may make recommendations on all requests for a conditional use permit under the terms of the zoning ordinance.
 - (2) The commission shall report its recommendations to the council for action.
- (e) *Subdivisions.* The planning commission may make recommendations in relation to the subdividing of land as prescribed by the ordinance codified in LEC title 103; the commission shall report its recommendations to the council for action.
- (f) *Variances.* The planning commission shall hear all variance requests from the literal provisions of this Code, and shall follow the guidelines set forth in the zoning code, codified in LEC title 105.
- (g) *Capital improvement program.*
 - (1)
 - a. The planning commission shall endeavor to obtain from city officers a descriptive list of proposed improvements for the ensuing five-year period.
 - b. The planning commission shall also request from the local school district a similar list of its proposed public works.
 - (2)
 - a. The planning commission shall list and classify all the proposed public works and shall prepare a coordinated program of proposed public works for the ensuing year and for a projected five-year period.
 - b. The program shall be recommended by the planning commission to the council and to the other officers, departments, boards, or public bodies as have jurisdiction over the recommended planning or construction of the public works.

(Code 1997, § 210.18; Code 2007, § 32.042)

3.12-III FIRE DEPARTMENT

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[3.12.300 Membership](#)

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[3.12.400 Obstruction Of Fire Department](#)

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3.12.290 Organization

The fire department shall consist of one chief, one assistant chief at each fire station, and up to 28 firefighters between the ages of 18 to 65 years of age who are approved by the council.

(Code 1997, § 215.01; Code 2007, § 32.055)

3.12.300 Membership

- (a) The fire chief shall submit all applications or resignations from the fire department to the city administrator.
- (b) The city administrator will then notify the council of any new applicants or resignations from the fire department.

(Code 1997, § 215.02; Code 2007, § 32.056)

3.12.310 Duties

In all cases of fire, the chief, or in the chief's absence, the assistant chief or next senior officer, shall have full control over all fire equipment and shall cause the equipment to be used in the most advantageous manner.

(Code 1997, § 215.03; Code 2007, § 32.057)

3.12.320 Records

- (a) The chief shall maintain records of all alarms, fire losses, methods of

extinguishment, drills, and conditions of equipment and hydrants.

(b) The chief shall present current records to the council at least quarterly.

(Code 1997, § 215.04; Code 2007, § 32.058)

3.12.330 Removal Of Obstructions

At any fire, the chief and the chief's assistant shall have authority to authorize and direct the removal of any and all obstructions from in front of and around fire hydrants.

(Code 1997, § 215.05; Code 2007, § 32.059)

3.12.340 Maintenance

The chief shall properly maintain all fire equipment and facilities, inspect all new equipment, and conduct appropriate drills to maintain a reasonable level of skill among the firefighters.

(Code 1997, § 215.06; Code 2007, § 32.060)

3.12.350 Unauthorized Use Of Equipment

Unauthorized use of equipment or facilities shall be a misdemeanor.

(Code 1997, § 215.07; Code 2007, § 32.061)

3.12.360 Right-Of-Way

- (a) All personal cars of fire department members shall have right-of-way over all other traffic when responding to a call.
- (b) Firefighters' cars may be designated, if necessary. Firefighters shall obey all traffic laws en route to a fire alarm.

(Code 1997, § 215.08; Code 2007, § 32.062)

3.12.370 Obstructions

No person shall park any vehicle of any description or place any material or obstruction within 20 feet of the entrance to any fire station, or within 15 feet of any fire hydrant or fire cistern, nor park any vehicles within 300 feet of a fire.

(Code 1997, § 215.09; Code 2007, § 32.063)

3.12.380 False Alarm

No person shall maliciously or intentionally sound a false fire alarm.

(Code 1997, § 215.10; Code 2007, § 32.064)

3.12.390 Pursuit

No unauthorized person shall ride upon, race with, trail, or follow within 600 feet of any apparatus belonging to the fire department when actively responding to a fire alarm.

(Code 1997, § 215.11; Code 2007, § 32.065)

3.12.400 Obstruction Of Fire Department

- (a) It is unlawful for any person to oppose or obstruct a member of the fire department or a firefighter in the performance of any legal duty.
- (b) It is also unlawful for any person to obstruct or hinder the entry of a firefighter upon premises or into buildings or other places where a fire or fire hazard exists or is reasonably suspected to exist.

(Code 1997, § 215.12; Code 2007, § 32.066)

3.12.410 Composition, Appointment And The Like

- (a) *Composition.* The city fire department (the fire department) is a volunteer department of the city and shall consist of a fire chief; two district fire chiefs; four fire captains; and up to 28 additional firefighters. A total of 35 positions are authorized. The fire department is also authorized two volunteer support services positions (non-firefighter) with need defined and requested by the chief and approved by the city administrator. Payment structure will be defined by the city administrator.
- (b) *Position classification.* Firefighter positions have two classifications for compensation purposes; the city's employee/voluntary firefighter and voluntary firefighter. Non-firefighter positions will be defined as volunteer support services.
- (c) *Compensation.* City employee voluntary firefighter positions shall be compensated at an annual stipend rate of \$2,500.00 per year. This compensation will be provided to a volunteer firefighter, in good standing, who is a city employee that volunteers for the fire department. City volunteer firefighter positions shall be compensated at a rate of \$10.25 per hour for calls for service. The compensation for voluntary firefighter service will change as proposed by the city administrator and approved by the city council. In addition, an annual and equal contribution to the city's fireman's retirement/relief association will be provided for each firefighter position regardless of the position or employment classification. The rate of contribution will vary as required by state statute.
- (d) *Appointment of fire chief.* The replacement of the fire chief shall be selected by the mayor and city administrator from a pool of existing city firefighters, who have

formally expressed interest in position through an application process and after achieving the established selection criterion. The fire chief will report to the city administrator for overall management and regulation subject to the review by the city council. The city administrator and mayor shall define the selection process. The selected candidate's name shall be forwarded to the city council for appointment confirmation. The chief shall remain in that appointed position unless removed by the city administrator and mayor after formal concurrence by the city council. The city administrator and mayor shall provide an annual evaluation of the fire chief. A volunteer fire chief stipend will also be paid in addition to volunteer firefighter payment for responding to calls for service.

- (e) *Appointment of district fire chiefs.* The district fire chiefs shall be selected in a designed process by the city administrator and the fire chief and confirmed by the city council. The district fire chiefs will continue to serve in the appointed position unless removed by the city administrator and fire chief and confirmed by the city council. The district fire chiefs will report to the fire chief for overall management and regulation. A volunteer district fire chiefs stipend will also be paid in addition to volunteer firefighter payment for responding to calls for service.
- (f) *Appointment of fire safety officer.* The fire safety officer shall be selected by the fire chief and recommended to the city administrator for confirmation by the city council. The fire safety officer will continue to serve in the appointed position unless removed by the city fire chief and city administrator for confirmation by the city council. The fire safety officer will report to the fire chief for overall management and regulation. A volunteer fire safety officer stipend will also be paid in addition to volunteer firefighter payment for responding to calls for service.
- (g) *Appointment of fire captains.* The fire captains shall be selected in a designed process by the city fire chief, district fire chiefs and recommended to the city administrator for confirmation by the city council. The position of captain will continue to serve in the appointed volunteer position unless removed by the fire chief and recommended to the city administrator for confirmation by the city council. The captains will report to the fire chief and district fire chiefs for overall management and regulation. A volunteer fire captain's stipend will also be paid in addition to the volunteer firefighter payment for responding to calls for service.
- (h) *Fire department policy manual.* The fire chief and district fire chiefs shall develop, review and implement department policies to communicate existing rules, operational procedures and practices and to establish performance standards. Policy developed shall be reviewed by the district fire chiefs, fire captains and the fire safety officer prior to review and concurrence by the city administrator. Department policies shall define required behavior. Standard operating guidelines (SOGs) shall also be developed in a separate section of the departmental policy manual. SOGs should be considered as guidances and not required behavior. All fire department SOGs will have a final review and concurrence by the city administrator. Any portion of an SOG developed or implemented determined in conflict with city operational practice or law will be

considered repealed.

- (i) *Obstructions*. No person shall obstruct or hinder the entry of a firefighter upon premises or into buildings or other places where a fire or fire hazard exists or is reasonably suspected to exist.

(Code 2007, § 32.067; Ord. No. 97-141, 9-21-2004)

3.12-IV PARKS COMMISSION

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3.12.420 Establishment

A parks commission of the city is hereby continued.

(Code 1997, § 225.01; Code 2007, § 32.080)

3.12.430 Purpose

The parks commission is established to review and make recommendations to the council on the future development of city parks, including the establishment of and improvements to the parks, and to make recommendations to the council on policies governing the maintenance and public use of the parks within the city.

(Code 1997, § 225.02; Code 2007, § 32.081; Ord. No. 08-092, 10-15-2013)

3.12.440 Composition

The parks commission shall consist of seven members and two alternate members. The

voting members shall be appointed by the city council for a three-year term. Voting members may not serve more than two consecutive terms. Appointment to additional terms will be considered with the available applicant pool. Alternate members shall be appointed to serve until there is a vacancy on the parks commission. The city council shall appoint a first alternate and a second alternate who shall become voting members in the order of their appointment. In its discretion, the city council may adjust the lengths of terms of office for parks commission members so that no more than one-half of the terms expire in any given year.

(Code 1997, § 225.03; Code 2007, § 32.082; Ord. No. 97-148, 2-15-2005; Ord. No. 08-038, 1-25-2011)

3.12.450 Qualifications

Each member and alternate member shall be a resident of the city. Wherever possible, commission members should represent all geographical areas of the city and a cross-section of the population of the city at the time of appointment.

(Code 1997, § 225.04; Code 2007, § 32.083)

3.12.460 Removal

Any member or alternate member may be removed by a four-fifths vote of the council, for cause. Cause shall include, but not be limited to, having more than three consecutive unexcused absences or being absent from more than one-third of the meetings in any one calendar year. The council may consider exceptional circumstances when applying this rule.

(Code 1997, § 225.05; Code 2007, § 32.084)

3.12.470 Officers

The commission shall elect a chairperson, a vice-chairperson, and may elect a secretary from among its appointed members at the annual meeting each year, for a term of one year. The chairperson shall preside at all meetings of the commission, if present, and shall perform all other duties and functions assigned by the commission or the council. The vice-chairperson shall perform these duties in the absence of the chairperson. If a vacancy occurs in the chairperson's office, the vice-chairperson shall assume the chairperson's duties for the remainder of the year; and a new vice-chairperson shall be elected by the commission at a special election to be held at the next regularly scheduled commission meeting, after at least two-days' written notice to each commission member. A recording secretary shall be appointed by the council to take and keep the minutes and records of the commission.

(Code 1997, § 225.06; Code 2007, § 32.085)

3.12.480 Annual Meeting

The commission shall hold an annual meeting the first Monday in the month of January in each year, unless the first Monday is New Year's Day, in which case the annual meeting shall be held at the first regularly scheduled meeting of the commission in the month of January in each year. The meeting shall be devoted to the election of officers and other business as shall be scheduled.

(Code 1997, § 225.07; Code 2007, § 32.086)

3.12.490 Annual Work Plan

The parks commission shall meet with the council at their first meeting in April each year to develop an annual work plan, including a list of projects, points of interaction on projects, programs, and goals for the year.

(Code 1997, § 225.08; Code 2007, § 32.087)

3.12.500 Regular Meetings

- (a) The date, place, and time of regular meetings of the parks commission will be specified by the council as a policy statement that will be included in the city's policy book. The intent of this section is to allow the parks commission meetings to be set by city policy rather than by ordinance.
- (b) No action shall be taken in the absence of a quorum, except to adjourn the meeting to a subsequent date. A regular meeting may be canceled or rescheduled by the commission at a prior meeting if there are no scheduled agenda items on the Thursday prior to the meeting. All action taken by the commission shall be by the affirmative vote of a majority of the members present.

(Code 1997, § 225.09; Code 2007, § 32.088)

3.12.510 Special Meetings

- (a) Special meetings of the commission shall be held in the city hall at a time and place designated or at a public place at a time designated and shall be called by the chairperson.
- (b) Upon the written request of at least four members, the chairperson shall be required to call a special meeting to be held within seven days of the request.
- (c) Written notice of the special meeting shall be given to all members not less than 72 hours in advance of the meeting.

(Code 1997, § 225.10; Code 2007, § 32.089)

3.12.520 Required Number Of Members Present To Conduct Meetings

A meeting can be conducted if five members of the commission are present.

(Code 1997, § 225.11; Code 2007, § 32.090; Ord. No. 97-114, 9-17-2002)

3.12.530 Voting

Each member attending any meeting shall be entitled to cast one vote. Voting shall be by voice vote. If any member has a personal interest of any kind in the matter then before the commission, the member shall disclose this interest and be disqualified from voting upon the matter. The secretary shall record in the minutes that no vote was cast by the member. Alternate members shall be entitled to cast one vote in the absence of any member. The second alternate shall be entitled to cast one vote in the absence of any two members.

(Code 1997, § 225.12; Code 2007, § 32.091)

3.12.540 Proceedings

At any regular meeting of the commission, the following shall be the regular order of business:

- (a) Roll call;
- (b) Minutes of the preceding meeting;
- (c) Public hearings as scheduled on the agenda;
- (d) Old and new business as scheduled on the agenda;
- (e) Communications; and
- (f) Adjournment.

(Code 1997, § 225.13; Code 2007, § 32.092)

3.12.550 Rules Of Procedure

All meetings of the commission shall be conducted in accordance with the Revised Robert's Rules of Order.

(Code 1997, § 225.14; Code 2007, § 32.093)

3.12.560 Agenda

The chairperson shall cause all items to be considered at any meeting to be placed on a written agenda by the city administrator. The city administrator shall advise the chairperson of any matters the commission must consider by council directive, ordinance, or statute and shall have prepared and mailed a written agenda of all meetings to all commission members, the council, and the public, no less than four days

before each meeting.

(Code 1997, § 225.15; Code 2007, § 32.094)

3.12.570 Records

Each formal action of the commission shall be embodied in full upon the minute book as a formal motion or resolution after an affirmative vote as provided in this section. The minutes of each meeting shall be provided to each member, the council, and the public no more than seven days after the date of each meeting. The recommendations and findings of the commission shall be presented to the council at the next regularly scheduled council meeting. The records of meetings and actions and recommendations shall be transmitted to the city administrator for keeping and distribution.

(Code 1997, § 225.16; Code 2007, § 32.095)

3.12.580 Training

Commission members shall be encouraged to avail themselves of training courses offered by the city, the state, and other government and public training agencies and the council shall budget for the reimbursement of expenses incurred in training each year.

(Code 1997, § 225.17; Code 2007, § 32.096)

3.12.590 Powers And Duties

- (a) The commission shall prepare, hold hearings on, and recommend to the council the plans, programs, and policies as it deems necessary to carry out the purposes of LEC 3.12.420 et seq.
- (b) The powers shall include, but not necessarily be limited to, studying and recommending to the council on the following:
 - (1) Land acquisition for park and recreation purposes;
 - (2) Plans for major improvements in city parks;
 - (3) Rules and requirements for conduct of and in parks and recreation facilities;
 - (4) Plans and programs relating to the design and programming of city parks; and
 - (5) The other plans and programs as may be assigned from time to time.
- (c) The commission shall not be considered a park board under state statutes and shall have no powers to acquire or lease land, employ personnel, enter into contracts or leases, or any similar powers authorized for a park board by state statutes.

(Code 1997, § 225.18; Code 2007, § 32.097)

3.12-V HERITAGE PRESERVATION COMMISSION

3.12.600 Establishment

3.12.610 Purpose

3.12.620 Composition

3.12.630 Qualifications

3.12.640 Removal

3.12.650 Officers

3.12.660 Annual Meeting

3.12.670 Annual Work Plan

3.12.680 Regular Meetings

3.12.690 Special Meetings

3.12.700 Quorum

3.12.710 Voting

3.12.720 Proceedings

3.12.730 Rules Of Procedures

3.12.740 Agenda

3.12.750 Records

3.12.760 Training

3.12.770 Powers

3.12.780 Communication With The State Historic Preservation Officer

3.12.600 Establishment

In accordance with M.S.A. § 471.193 (municipal heritage preservation), as it may be amended from time to time, and the powers of this statutory city, a heritage preservation commission is hereby continued.

(Code 1997, § 230.01; Code 2007, § 32.110)

3.12.610 Purpose

The purpose of the heritage preservation commission is to engage in a comprehensive program of historic preservation and to preserve and promote the city's historic resources according to this subchapter.

(Code 1997, § 230.02; Code 2007, § 32.111)

3.12.620 Composition

- (a) The heritage preservation commission (HPC) shall consist of five members, two alternate members, and one ex officio member from the county historical society.
- (b) Members shall be appointed by the council for three-year terms so that only one-

third of the appointments will expire on December 31 of each year. No member may serve more than two consecutive three-year terms unless the average years of service for all commission members is less than four years. A member who has served two terms may be reappointed by the council after a one-year absence.

- (c) The council shall designate a first alternate and a second alternate who will become full members in order of appointment and shall complete the unexpired term of the member they succeed.
- (d) If the office of any alternate becomes vacant, the vacancy shall be filled in the same manner in which the last regular appointment for that office was made.

(Code 1997, § 230.03; Code 2007, § 32.112)

3.12.630 Qualifications

Each commission member must be a person with demonstrated interest and expertise in historic preservation and must reside or work within the city with the exception of ex officio members.

(Code 1997, § 230.04; Code 2007, § 32.113)

3.12.640 Removal

Any member or alternate member may be removed by a four-fifths vote of the council, for cause. Cause shall include, but not be limited to, having more than three consecutive unexcused absences or being absent from more than one-third of the meetings in any one calendar year. The council may consider exceptional circumstances when applying the rule.

(Code 1997, § 230.05; Code 2007, § 32.114)

3.12.650 Officers

The commission shall elect a chairperson and a vice-chairperson, and may elect a secretary from among its appointed members at the annual meeting each year, for a term of one year. The chairperson shall preside at all meetings of the commission, if present, and shall perform all other duties and functions assigned by the commission or the council. The vice-chairperson shall perform these duties in the absence of the chairperson. If a vacancy occurs in the chairperson's office, the vice-chairperson shall assume the chairperson's duties for the remainder of the year; and a new vice-chairperson shall be elected by the commission at a special election to be held at the next regularly scheduled commission meeting, after at least two-days' written notice to each commission member.

(Code 1997, § 230.06; Code 2007, § 32.115)

3.12.660 Annual Meeting

The commission shall hold an annual meeting the first Monday in the month of January in each year unless the first Monday is a New Year's Day, in which case the annual meeting shall be held at the first regularly scheduled meeting of the commission in the month of January in each year. The meeting shall be devoted to the election of officers and the other business as shall be scheduled.

(Code 1997, § 230.07; Code 2007, § 32.116)

3.12.670 Annual Work Plan

The commission shall meet with the council at their first meeting after formation and at the first meeting in September each year thereafter to review activities during the preceding year and develop an annual work plan through the establishment and review of goals, objectives, and tentative action steps.

(Code 1997, § 230.08; Code 2007, § 32.117)

3.12.680 Regular Meetings

Regular meetings shall be held in the city hall at ____ p.m. on the _____ of each month. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. A regular meeting may be canceled or rescheduled by the commission at a prior meeting if there are no scheduled agenda items on the Thursday prior to the meeting. All action taken by the commission shall be by the affirmative vote of a majority of the members present.

(Code 1997, § 230.09; Code 2007, § 32.118)

3.12.690 Special Meetings

Special meetings of the commission shall be held in the city hall at a time and place designated or at a public place at a time designated and shall be called by the chairperson. Upon the written request of at least four members, the chairperson shall be required to call a special meeting to be held within seven days of the request. Written notice of the special meeting shall be given to all members not less than 72 hours in advance of the meeting.

(Code 1997, § 230.10; Code 2007, § 32.119)

3.12.700 Quorum

A quorum shall consist of two-thirds of the members.

(Code 1997, § 230.11; Code 2007, § 32.120)

3.12.710 Voting

Each member attending any meeting shall be entitled to cast one vote. Voting shall be by voice vote. If any member has a personal interest of any kind in the matter then before the commission, the member shall disclose this interest and be disqualified from voting upon the matter. The secretary shall record in the minutes that no vote was cast by the member. Alternate members shall be entitled to cast one vote in the absence of any member. The second alternate shall be entitled to cast one vote in the absence of any two members.

(Code 1997, § 230.12; Code 2007, § 32.121)

3.12.720 Proceedings

At any regular meeting of the commission, the following shall be the regular order of business:

- (a) Roll call;
- (b) Minutes of the preceding meeting;
- (c) Old and new business as scheduled on the agenda;
- (d) Communications; and
- (e) Adjournment.

(Code 1997, § 230.13; Code 2007, § 32.122)

3.12.730 Rules Of Procedures

All meetings of the commission shall be conducted in accordance with the Revised Robert's Rules of Order.

(Code 1997, § 230.14; Code 2007, § 32.123)

3.12.740 Agenda

- (a) The chairperson shall cause all items to be considered at any meeting to be placed on a written agenda by the city administrator.
- (b) The city administrator shall advise the chairperson of any matters the commission must consider by council directive, ordinance, or statute and shall have prepared and mailed a written agenda of all meetings to all commission members, the council, and the public no less than four days before each meeting.

(Code 1997, § 230.15; Code 2007, § 32.124)

3.12.750 Records

Each formal action of the commission shall be embodied in full upon the minute book as a formal motion or resolution after an affirmative vote as provided in LEC 3.12.600 et seq. The minutes of each meeting shall be provided to each member, the council, and the public no more than seven days after the date of each meeting. The recommendations and findings of the commission shall be presented to the council at the next regularly scheduled council meeting. The records of meetings and actions and recommendations shall be transmitted to the city administrator for keeping and distribution.

(Code 1997, § 230.16; Code 2007, § 32.125)

3.12.760 Training

Commission members shall be encouraged to avail themselves of training courses offered by the city, the state, and other government and public training agencies, and the council shall budget for the reimbursement of expenses incurred in training each year.

(Code 1997, § 230.17; Code 2007, § 32.126)

3.12.770 Powers

The powers of the commission are to actively promote historical preservation within the city; to receive and cause to be made public display of artifacts of significance to the community, and to appropriately receive and secure them; to write, or cause to be written, a pictorial (all media) history of the city; to establish and maintain liaison with civic, church, and other groups for the purpose of promoting historic preservation and timely securing artifacts; to promote giving of artifacts, structures, or money to promote the activities involved in historical preservation; and further:

- (a) To survey and recommend to the council the designation of districts, sites, buildings, structures, and objects that are of historical, architectural, archaeological, engineering, or cultural significance;
- (b) To recommend to the council rules governing construction, alteration, demolition, and use, including the review of building permits, and the adoption of other measures appropriate for the preservation, protection, and perpetuation of designated properties and areas;
- (c) To recommend to the council the acquisition by purchase, gift, or bequest of a fee or lesser interest, including preservation restrictions, in designated properties and adjacent or associated lands which are important for the preservations and use of the designated properties;
- (d) To recommend to the council the use of its powers of eminent domain to maintain or preserve designated properties and adjacent or associated lands;

- (e) To recommend to the council the granting of use variances to the zoning ordinance for the purpose of promoting historical preservation or continuity;
- (f) To participate in the conduct of land use planning processes by the review and comment on documents or actions relating to designated areas and on comprehensive plans; and
- (g) To recommend to the council the removal of blighting influences in designated areas, including signs, unsightly structures, and debris incompatible with the physical well-being of the areas.

(Code 1997, § 230.18; Code 2007, § 32.127)

3.12.780 Communication With The State Historic Preservation Officer

Proposed site designations and design guidelines must be sent to the state historic preservation officer at the Minnesota Historical Society, after initial review by the council, who shall review and comment on the proposal within 60 days. By October 31 of each year, each commission shall submit an annual report to the state historic preservation officer. The report must summarize the commission's activities, including designations, reviews, and other activities, during the previous 12 months.

(Code 1997, § 230.19; Code 2007, § 32.128)

3.12-VI HUMAN RIGHTS COMMISSION

[3.12.790 Establishment](#)

[3.12.800 Intent, Purpose, And Mission](#)

[3.12.810 Composition](#)

[3.12.820 Removal](#)

[3.12.830 Officers](#)

[3.12.840 Annual Meeting](#)

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[3.12.910 Agenda](#)

[3.12.920 Records](#)

[3.12.930 Training](#)

[3.12.940 Duties Of The Commission](#)

3.12.790 Establishment

A human rights commission of the city is hereby established.

(Code 1997, § 240.01; Code 2007, § 32.140)

3.12.800 Intent, Purpose, And Mission

The intent, purpose, and mission of the human rights commission, in cooperation with the state department of human rights, is to secure for all citizens equal opportunity in housing, employment, public accommodations, public services, and education, and to work consistently to foster a positive human relations climate in the city.

(Code 1997, § 240.02; Code 2007, § 32.141)

3.12.810 Composition

- (a) The human rights commission shall consist of seven members. The council shall appoint members for three-year terms so that only one-third of the appointments will expire on December 31 of each year. No member may serve more than two consecutive three-year terms unless the average years of service for all commission members are less than four years. The council may reappoint a member who has served two terms after a one-year absence.
- (b) In the case of original members, one member shall be appointed for a term expiring in one year, one member shall be appointed for a term expiring in two years, and one member shall be appointed for a term expiring in three years.

(Code 1997, § 240.03; Code 2007, § 32.142)

3.12.820 Removal

Any member may be removed by a four-fifths vote of the council, for cause. Cause shall include, but not be limited to, having more than three consecutive unexcused absences or being absent from more than one-third of the meetings in any one calendar year. The council may consider exceptional circumstances when applying the rule.

(Code 1997, § 240.04; Code 2007, § 32.143)

3.12.830 Officers

The commission shall elect a chairperson, a vice-chairperson, and secretary from among its appointed members at the annual meeting each year, for a term of one year. The chairperson shall preside at all meetings of the commission, if present, and shall perform all other duties and functions assigned by the commission or the council. The vice-chairperson shall perform these duties in the absence of the chairperson. If a vacancy occurs in the chairperson's office, the vice-chairperson shall assume the chairperson's duties for the remainder of the year. A new vice-chairperson shall be elected by the commission at a special election to be held at the next regularly scheduled commission meeting, after at least two-days' written notice to each commission member. The secretary shall take minutes of all meetings.

(Code 1997, § 240.05; Code 2007, § 32.144)

3.12.840 Annual Meeting

The commission shall hold an annual meeting during the first regular meeting in each year. The meeting shall be devoted to the election of officers and the other business as shall be scheduled.

(Code 1997, § 240.06; Code 2007, § 32.145)

3.12.850 Regular Meetings

Regular meetings shall be held in the city hall at 7:00 p.m. on the third Monday of each month. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. A regular meeting may be canceled or rescheduled by the commission at a prior meeting if there are no scheduled agenda items on the Thursday before the meeting. All action taken by the commission shall be by the affirmative vote of a majority of the members present.

(Code 1997, § 240.07; Code 2007, § 32.146)

3.12.860 Special Meetings

Special meetings of the commission shall be held in the city hall at a time and place designated or at a public place at a time designated and shall be called by the chairperson. Upon the written request of at least four members, the chairperson shall be required to call a special meeting to be held within seven days of the request. Written notice of the special meeting shall be given to all members not less than 72 hours in advance of the meeting.

(Code 1997, § 240.08; Code 2007, § 32.147)

3.12.870 Quorum

A quorum shall consist of four members.

(Code 1997, § 240.09; Code 2007, § 32.148)

3.12.880 Voting

- (a) Each member attending any meeting shall be entitled to cast one vote.
- (b) Voting shall be by voice vote.
- (c) If any member has a personal interest of any kind in the matter then before the commission, the member shall disclose this interest and be disqualified from voting upon the matter.

(d) The secretary shall record in the minutes that the member cast no vote.

(Code 1997, § 240.10; Code 2007, § 32.149)

3.12.890 Proceedings

At any regular meeting of the commission, the following shall be the regular order of business:

- (a) Roll call;
- (b) Minutes of the preceding meeting;
- (c) Old and new business as scheduled on the agenda;
- (d) Communications; and
- (e) Adjournment.

(Code 1997, § 240.11; Code 2007, § 32.150)

3.12.900 Rules Of Procedures

All meetings of the commission shall be conducted in accordance with the Revised Robert's Rules of Order.

(Code 1997, § 240.12; Code 2007, § 32.151)

3.12.910 Agenda

An agenda shall be prepared for all meetings outlining the topics to be discussed at the meeting. The city administrator shall advise the chairperson of any matters the commission must consider by council directive, ordinance, or statute and shall have prepared and mailed a written agenda of all meetings to all commission members, the council, and the public no less than four days before each meeting.

(Code 1997, § 240.13; Code 2007, § 32.152)

3.12.920 Records

Each formal action of the commission shall be embodied in full upon the minute book as a formal motion or resolution after an affirmative vote as provided in LEC 3.12.790 et seq. The recommendations and findings of the commission shall be presented to the council at the next regularly scheduled council meeting. The records of meetings and actions and recommendations shall be transmitted to the city administrator for keeping and distribution.

(Code 1997, § 240.14; Code 2007, § 32.153)

3.12.930 Training

Commission members shall be encouraged to avail themselves of training courses offered by the city, the state, and other government and public training agencies, and the council shall budget for the reimbursement of expenses incurred in training each year.

(Code 1997, § 240.15; Code 2007, § 32.154)

3.12.940 Duties Of The Commission

- (a) The commission shall foster, through education and public information, general awareness and understanding of human relations and human rights issues and laws in the community.
- (b) The commission shall enlist the cooperation of agencies, organizations, and individuals in the community, and shall cooperate with the human and civil rights agencies of other communities in an active program directed to create equal opportunities and equal rights for all persons.
- (c) The commission shall annually recognize individuals and groups for their contribution to furthering positive human relations in the community.
- (d) The commission shall advise the mayor, city council, and city administrator on human relations and civil rights issues and recommend to the mayor, city council, and city administrator the adoption of the specific policies or actions as are needed to provide for full equal opportunity in the city.
- (e) The commission may recommend that the city take part in the no-fault grievance process administered by the state department of human rights, and, if an election is made, the commission shall be bound by all rules promulgated pursuant to the rule-making authority of that body.
- (f) The commission shall not seek to impose penalties or become involved in issues not directly related to human relations and human rights.
- (g) The commission shall inform any persons seeking to resolve their disputes through the commission of their rights to pursue a claim through the state department of human rights as well as to voluntarily participate in a dispute resolution process.
- (h) The commission will not become involved in matters which are germane to other established boards or commissions of the city, but may recommend that other commissioners review and comment on the issues.

(Code 1997, § 240.16; Code 2007, § 32.155)

CHAPTER 3.16 EMERGENCY MANAGEMENT

3.16.010 Policy And Purpose

3.16.020 Establishment Of Emergency Management Organization

[3.16.030 Powers And Duties Of Director](#)

[3.16.040 Local Emergencies](#)

[3.16.050 Emergency Regulations](#)

[3.16.060 Emergency Management A Government Function](#)

[3.16.070 Participation In Labor Disputes Or Politics](#)

3.16.010 Policy And Purpose

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds, or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to ensure that preparations of the city will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

- (a) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters;
- (b) To provide for the exercise of necessary powers during emergencies and disasters;
- (c) To provide for the rendering of mutual aid between the city and other political subdivisions of the state and of other states with respect to the carrying out of emergency preparedness functions; and
- (d) To comply with the provisions of M.S.A. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

(Code 2007, § 33.01)

3.16.020 Establishment Of Emergency Management Organization

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the city emergency management director, called the director. The director shall be appointed by the mayor with approval of the city council for an indefinite term and may be removed by him at any time. The director shall serve with a salary as established by the city council and shall be paid his necessary expenses. The director shall have direct responsibility for the organization, administration, and operation of the emergency preparedness organization, subject to the direction and control of the mayor.

(Code 2007, § 33.02)

3.16.030 Powers And Duties Of Director

- (a) The director, with the consent of the mayor, shall represent the city on any regional or state conference for emergency management. The director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the council for its action. These arrangements shall be consistent with the state emergency plan.
- (b) The director shall make studies and surveys of the human resources, industries, resources, and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the mayor.
- (c) The director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the council for its approval. When the council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.
- (d) In accordance with the state and city emergency plan, the director shall institute training programs, public information programs, and conduct practice warning alerts and emergency exercises as may be necessary to ensure prompt and effective operation of the city emergency plan when a disaster occurs.
- (e) The director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend services and facilities to the city's emergency management organization and to the governor upon request. The head of each department or agency in cooperation with the director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.
- (f) The director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency for

emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

- (g) Consistent with the state emergency services law, the director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by M.S.A. § 12.25, as it may be amended from time to time.
- (h) The director shall carry out all orders, rules, and regulations issued by the governor with reference to emergency management.
- (i) The director shall prepare and submit reports on emergency preparedness activities when requested by the mayor.

(Code 2007, § 33.03)

3.16.040 Local Emergencies

- (a) A local emergency may be declared only by the mayor or his legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the council. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the city clerk.
- (b) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.
- (c) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

(Code 2007, § 33.04)

3.16.050 Emergency Regulations

- (a) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the governor or the council, the council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training; and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

- (b) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited; and shall be filed in the office of the city clerk. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the city clerk's office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at other places in the affected area as the council shall designate in the resolution. By resolution, the council may modify or rescind a regulation.
- (c)
 - (1) The council may rescind any regulation by resolution at any time.
 - (2) If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first.
 - (3) Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the council shall be suspended during the period of time and to the extent conflict exists.
- (d)
 - (1) During a declared emergency, the city is, under the provisions of M.S.A. § 12.31, as it may be amended from time to time, and notwithstanding any statutory or Charter provision to the contrary, empowered, through its council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster.
 - (2) The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

(Code 2007, § 33.05)

3.16.060 Emergency Management A Government Function

- (a) All functions and activities relating to emergency management are hereby declared to be governmental functions.
- (b) The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter or under the workers' compensation law, or under any pension law, nor the right of any person

to receive any benefits or compensation under any Act of Congress.

(Code 2007, § 33.06)

3.16.070 Participation In Labor Disputes Or Politics

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

(Code 2007, § 33.07)

TITLE 5 PUBLIC WORKS

CHAPTER 5.04 WATER

CHAPTER 5.08 WASTE WATER TREATMENT SYSTEMS

CHAPTER 5.12 SOLID WASTE

CHAPTER 5.16 STORMWATER MANAGEMENT UTILITY

CHAPTER 5.20 ENVIRONMENTAL COMMISSION

CHAPTER 5.04 WATER

5.04-I GENERAL PROVISIONS

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5.04-I GENERAL PROVISIONS

5.04.010 Public Utility

5.04.020 Construction

5.04.030 Phone Read Meter Interface Unit Installation Instructions

5.04.010 Public Utility

The city's municipal water system (the water system) shall be operated as a public utility and convenience from which revenue will be derived, subject to the provisions of this chapter.

(Code 1997, § 600.01; Code 2007, § 50.01)

5.04.020 Construction

No person, firm, or corporation shall make, construct, or install any water service installation, or make use of any water service connected to the water system, except in the manner provided in this chapter. No person, firm, or corporation shall otherwise make, construct, install, or make use of any installation connected to the water system contrary to the regulatory provisions of this chapter.

(Code 1997, § 600.02; Code 2007, § 50.02)

5.04.030 Phone Read Meter Interface Unit Installation Instructions

The city's phone read meter interface unit installation instructions are hereby adopted by reference and incorporated herein as if set out in full.

(Code 2007, § 50.03)

5.04-II INSTALLATION PROCEDURES

5.04.040 Applications

[5.04.050 Plumbing Permits](#)

[5.04.060 Trunk Water Main Facilities And Lateral Water Main Connection Charges](#)

[5.04.070 Listing Of Accounts By House And Street Number](#)

5.04.040 Applications

- (a) *Application forms for service installations.* All applications for service installations and for water service shall be made at the city office on printed forms furnished by the city.
- (b) *Application by owner; payment.* All applications for service installations shall be made by the owner of the property to be served, or owner's duly authorized agent, and shall state the size and location of the service connection required. The applicant shall, at the time of making application, pay to the city the amount of fees or deposit required for the installation of the service connection as provided in this chapter.
- (c) *Application information needed.* The application shall also contain the name of the owner, an account number, and a description of the property, lot, block, and addition, name of the street upon which the property fronts and the official street number assigned to the premises as shown by the records of the city and the signature of the applicant, or applicant's agent, agreeing to conform to the rules and regulations that may be established by the city as conditions for the use of water.
- (d) *Application for water service.* When service connections have been installed, application for water service may be made at the city office either by the owner, a duly authorized agent, or by the tenant or occupant of the premises.
- (e) *Water meter; notification.* A meter spacer interface unit will be furnished to the contractor or plumber, at the time a connection permit is issued. The plumber shall notify the building official within 24 hours after piping is complete, giving street address and permit number. The city shall then program the meter interface unit.

(Code 1997, § 600.04; Code 2007, § 50.15)

5.04.050 Plumbing Permits

- (a) A permit must be obtained to connect to the water system. The fee for each permit shall be as provided in the city fee schedule. No permit shall be issued except to a licensed plumber. All costs to connect to an existing water main shall be paid for by the property owner.
- (b) If for any reason the contractor laying the service pipe should fail to have the connection made at the time specified in the contractor's application, notice must be given to the city building official affixing another day on which the contractor

wishes to make the connection. The notice must be given at least two business days prior to the excavation for laying of the service pipe, and the connection must be made before 3:00 p.m., except in special cases, and then the work must be done only upon a written order from the city building official.

(Code 1997, § 600.05; Code 2007, § 50.16; Ord. No. 97-29, 4-21-1998; Ord. No. 97-177, 9-1-2006)

5.04.060 Trunk Water Main Facilities And Lateral Water Main Connection Charges

- (a) A full lateral benefit assessment shall be levied for any building unit which is directly served by a trunk utility main and therefore requires no lateral main, if the building unit resides in a municipal urban service area designated by the city comprehensive plan. The building unit must connect to the municipal utility service within two years of the installation of the trunk utility main.
- (b) A lateral benefit assessment shall be levied for any building unit which is directly served by a trunk utility main and therefore requires no lateral main, if the building resides outside a municipal urban service area as designated by the city comprehensive plan. A stub shall be placed in front of the building unit and the building unit shall be levied at an equivalent of 0.5 lateral benefit assessment. If the building unit requests connection to water service subsequent to the completion of the utility main, the building unit shall be levied the remaining 0.5 lateral benefit assessment and charged all related connection and availability charges consistent with the city's current fee schedule and the cost of any restoration to the street, right-of-way, or water transmission infrastructure that results from the building unit connection.
- (c) The council shall set the fee from time to time by resolution, using the most recent project data.

(Code 1997, § 600.06; Code 2007, § 50.17; Ord. No. 97-177, 9-1-2006; Ord. No. 08-108, 6-17-2014)

5.04.070 Listing Of Accounts By House And Street Number

- (a) All accounts shall be kept on the books of the city by the house and street number and under the account number assigned to the account and by the name of the owner or of the person signing the application for service.
- (b) All bills and notices sent out by the city shall be sent to the house and street number of the property.
- (c) If nonresident owners or agents desire personal notice sent to a different address, they shall file an application for the different address to the city.
- (d) Any error in address shall be promptly reported to the city.

(Code 1997, § 600.07; Code 2007, § 50.18)

5.04-III SERVICE REGULATIONS

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5.04.080 Water Rates

- (a) *Establishment of rates.* The rate due and payable to the city by each water user for water taken from a water system shall be that rate established by the council by resolution.
- (b) *Malfunctioning meter.* In case the meter is found to have stopped, or to be operating in a faulty manner, the amount of water used will be estimated in accordance with the amount used previously in comparable periods of the year.
- (c) *Billings.* Water bills shall be mailed to the customers quarterly and shall specify the water consumed and charge in accordance with the foregoing rates.
- (d) *Sprinkler system charges.* Where a connection is made to an automatic sprinkler system for standby service only, a charge as set by the council by resolution shall be made on an annual basis. These rates shall apply in all cases where automatic sprinklers are installed and where fire gates and other outlets are sealed. Meters or detector check valves must be installed on the services as required by the city. The amount of these rates shall be due January 1 of the year for which service is to be provided and shall be payable on or before February 1 of that year. Where service is for less than an annual period, the annual charge shall be prorated on a monthly basis and the prorated amount shall be paid at the time of the connection of the sprinkler system.
- (e) *Unmetered water.* Should it be found that water not metered is used through a fire

connection for any purpose other than the extinguishing of a fire upon the premises, the owner and occupant will be notified, and if the improper conditions are not corrected within ten days, the water will be shut off until proper adjustments are made. The owner shall be subject to the penalties as provided in LEC 1.04.230. Regular inspections shall be made of all fire service connections with all piping, fire gates, and other attached appurtenances. The city shall have access to the premises for the inspection and shall keep a record of all inspections made.

(Code 1997, § 600.08; Code 2007, § 50.30)

5.04.090 Statements; Delinquent Accounts

- (a) *Statements.* Statements for charges for water service for the period shall be mailed to each customer on or before January 5, April 5, July 5, and October 5 of each year. The statements shall be due and payable to the city administrator on or before the first day of the second month following the quarterly period covered by the statement.
- (b) *Delinquent accounts.* It shall be the duty of the city to endeavor to collect delinquent accounts as promptly as possible. Where satisfactory arrangements for payment have not been made, instructions shall be given to discontinue service by shutting off the water at the stop box. All delinquent accounts may be certified to the clerk/administrator, who shall prepare an assessment roll each year providing for assessment of the delinquent accounts against the respective property served. This assessment roll shall be delivered to the council for adoption on or before October 1 of each year. Upon approval of the assessment roll, the city administrator shall certify to the county auditor the amount due. The county auditor shall then enter the amount as part of the tax levy on the premises to be collected during the ensuing year. The action may be optional or subsequent to taking legal action to collect delinquent accounts.
- (c) *Delinquent account fee.* All delinquent accounts shall be charged a service fee as set forth from time to time by resolution of the city council.

(Code 1997, § 600.09; Code 2007, § 50.31)

5.04.100 Discontinuance Of Water Service

Water service may be shut off at any stop box connection whenever:

- (a) *Connection violations.* The owner or occupant of the premises served, or any person working on any pipes or equipment on the premises which as connected with the water system, has violated or threatens to violate or causes to be violated any of the provisions of this chapter;

- (b) *Delinquent charges.* Any charge for water, service, meter, or other financial obligation imposed on the present or former owner or occupant of the premises served is unpaid;
- (c) *Fraud; misrepresentation.* Fraud or misrepresentation by the owner or occupant of the premises served in connection with an application for service;
- (d) *Service charge for disconnection.* For turning off water service for non-payment of water bill, failure to repair leak, discontinuance of service, or any other cause, and the like; and/or
- (e) *Property access.* Failure to allow city employees or authorized representatives onto property for the purposes of installing or repairing water meters and/or remote reading devices (MIU).

(Code 1997, § 600.10; Code 2007, § 50.32; Ord. No. 97-29, 4-21-1998)

5.04.110 Authorized Water Shut Downs

- (a) The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs or connections, or from any other cause whatever. In case of fire, or alarm of fire, water may be shut off to ensure a supply for firefighting. In making repairs or construction of new works, water may be shut off at any time and kept shut off as long as necessary.
- (b)
 - (1) *Water turn-on/off.* No person, except an authorized city employee, shall turn on or off any water supply at the stop box without permission from the city.
 - (2) *Service charge for reconnection.* For turning on water where service has been turned off for non-payment of water bill, failure to repair a leak, discontinuance of service, or any other cause, a service charge, as set forth from time to time by council resolution, will be made.

(Code 1997, § 600.11; Code 2007, § 50.33)

5.04.120 Separate Meters Required

No more than one housing unit or building shall be supplied from one service connection except by special permission of the city. Whenever two or more parties are supplied from one pipe, connecting with the distribution main, each building or part of the building must have a separate stop box and a separate meter.

(Code 1997, § 600.12; Code 2007, § 50.34)

5.04.130 Authorization Required

Only persons authorized by this chapter shall tap any distributing main or pipe of the water system, or insert stopcocks or ferrules in the main or pipe.

(Code 1997, § 600.13; Code 2007, § 50.35; Ord. No. 97-29, 4-21-1998)

5.04.140 Service Pipes

- (a) *Maintenance of service pipe.* It shall be the responsibility of the consumer or owner to maintain the service pipe from the curb box into the house or building. In the case of failure upon the part of any consumer or owner to repair any leak occurring in the owner's pipe within 24 hours after verbal or written notice of the leak, the water will be shut off and will not be turned on until the service charge set forth from time to time by council resolution, and as specified in LEC 5.04.110, has been paid and the leak repaired. When the waste of water is great, or when damage is likely to result from the leak, water may be turned off immediately pending repairs.
- (b) *Frozen service pipes.* If the service pipe is frozen, the service pipe will be restored to proper operating condition only by an authorized city employee. The property owner/customer shall pay all costs associated with thawing out water service.
- (c) *Specifications for service pipe.* Every service pipe must be laid with sufficient waving to allow not less than one foot of extra length and in a manner to prevent rupture by settlement. The service pipe must be placed not less than eight feet below the surface and arranged to prevent rupture by freezing. Service pipes must extend from the curb box to the inside of the building, if not taken into a building, then to the hydrants or other fixtures which it is intended to supply. A shut-off or other stop-cock with waste valve, of the size and strength required, shall be used and placed to be well protected from freezing. Type K copper tubing shall be used up to and including two-inch services. All underground joints are to be mechanical, unless otherwise approved by the plumbing inspector. Joints on copper tubing shall be kept to a minimum, with not more than one joint used for service up to 70 feet in length. All joints and connections shall be left uncovered until inspected and tested at normal water line pressure. Services over two inches shall be Type K copper or Ductile iron pipe. Connections with the mains for domestic supply shall be at least one inch.

(Code 1997, §§ 600.14, 600.15, 600.17; Code 2007, § 50.36; Ord. No. 97-29, 4-21-1998)

5.04.150 Abandoned Services

- (a) *Disconnection of abandoned/unused services, charges.* All service installations that have been abandoned or have not been used for one year or, for any reason,

have become useless for further service, shall be disconnected at the main by the city and all pipe and appurtenances removed shall be the property of the city. Any expense of the city shall be charged to the property and, if not paid within 30 days, shall be treated as a delinquent account pursuant to LEC 5.04.090.

- (b) *Changes to "old," existing connections.* When new buildings are erected on the site of the old ones, and it is desired to increase or change the old water service, no connections with the mains shall be given until all the old service shall have been removed and the main plugged. If any contractor, worker, or employee upon the building shall cause or allow any service pipe to be hammered together at the ends to stop the flow of water, or to save expense in removing the pipe from the main, the owner of the building, the worker, and contractor shall, upon conviction of the violation, be subject to the penalties as set forth in LEC 1.04.230, and shall remove the service pipe from the main. If the contractor, worker, or employee fails to do so on 24 hours notice, the contractor, worker, or employee shall be obligated to pay the city the cost incurred by it for the removal.

(Code 1997, § 600.16; Code 2007, § 50.37)

5.04.160 Water Pipe Connected To Pump, Wells, Or Tank

No water pipe of the water system shall be connected with any pump, well, tank, or piping that is connected with any other source of water supply, and when these connections are found, the building official shall notify the owner to disconnect the connection. If not done immediately, the water supply shall be turned off immediately. Before any new connection to the water system is permitted, the plumbing inspector shall ascertain that no cross connection will exist when the new connection is made. No person shall permit water from the water system to be used for any purpose except upon the person's own premises unless written consent is first obtained from the city.

(Code 1997, § 600.18; Code 2007, § 50.38)

5.04.170 Water Connections For Newly Acquired City Property

In any and all cases where water mains of the city have been or shall be extended to or constructed in any road, street, alley, or public highway, adjacent to or outside the corporate limits of the city, the council is authorized to issue permits to the owners or occupants of the properties adjacent to, or accessible to, the water mains and to make proper water service pipe connections with the water mains of the city and to be supplied with water in conformity with and subject to all the terms, conditions, and provisions of this chapter. Persons accepting the service shall agree to be bound and obligated by this subchapter.

(Code 1997, § 600.19; Code 2007, § 50.39)

5.04.180 Water Use Restrictions

(a) *Emergency authority.* To protect the health and safety of the consumers, as well as the general welfare, the mayor or city council may impose emergency regulations pertaining to city water use. Whenever the city shall determine that a critical water deficiency prevails, it may limit the times and hours during which water may be used from the city water system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other nonessential uses. It is unlawful for any water consumer to cause or permit water to be used in violation of such determination after public announcement thereof has been made through publication or by posting in the city hall and city website specifically indicating the restrictions thereof.

- (1) The mayor or city council may declare a critical water deficiency to prevail within the city whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the city to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.
- (2) The mayor or city council shall thereupon enact such regulations and restrictions on the delivery of water and the consumption within the city to conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection.
- (3) When the governor declares a critical water deficiency, the mayor or city council will enact and enforce water conservation restrictions in accordance with M.S.A. § 103G.291.
- (4) Water use regulations and restrictions may include the right to deny applications for new or additional service connections, and provisions for their enforcement by discontinuing service to customers willfully violating the regulations and restrictions.

(b) *Permanent water use restrictions.* To encourage water conservation and allow flexibility in the city's water system in meeting peak demands, and to reduce the required water supply and storage capacity requirements allowing for a lower cost water system, certain limitations must be placed on the city's water supply.

- (1) *Odd/even sprinkling ban.* Property owners having even-numbered postal addresses may water, sprinkle, or irrigate their lawns only on even-numbered days, and property owners having odd-numbered postal addresses may water, sprinkle, or irrigate their lawns only on odd-numbered days.
- (2) *Time of day sprinkling ban.* All property owners are prohibited from watering, sprinkling, or irrigating their lawns between the hours of 10:00 a.m. and 5:00 p.m. daily.
- (3) *Exceptions.* The permanent water use restrictions do not apply in the

following situations:

- a. Private wells.
 - b. Recently established lawns if permission is granted through a watering restriction waiver form, allowing daily watering for up to 30 days after installation. Watering must still adhere to the restricted hours for the time of day sprinkling ban. New sod or seeded lawns or other landscaping requiring watering, sprinkling, or irrigation, shall not be installed during a water shortage emergency.
 - c. Attended hand-watering of plants, shrubs, trees, and gardens.
- (c) *Lawn watering, sprinkling, and irrigation.* All lawn sprinkler systems and irrigation systems connected to the municipal water system, whether such systems are aboveground or underground, shall require a permit for connection and shall be installed in accordance with the state plumbing code. To conserve water, all lawn sprinkler systems and irrigation systems which are automatic or are equipped to operate automatically and which are connected to the municipal water system, shall be equipped with a rain-detection device such to prevent the system from operating when it rains (per M.S.A. § 103G.298). All lawn sprinkler systems and irrigation systems connected to the municipal water system shall be constructed and operated to prevent water waste resulting from inefficient landscape irrigation by prohibiting runoff, low head drainage, over spray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, or structures.
- (d) *Enforcement.* Failure to comply with restrictions or prohibitions imposed under this section shall result in a surcharge for water service for each violation in an amount determined by resolution of the city council, which shall be added to the water bill for the property on which such violation occurs. Each day of violation shall be deemed a separate violation. Continued violation shall be cause for discontinuing water service.

(Code 2007, § 50.40; Ord. No. 08-018, 11-4-2009)

5.04.190 Private Wells

- (a) *Dual water system.* Except as provided in subsection (b) of this section, a private well may be maintained and continued in use after connections made to the city water system, provided that there is no means of cross connection between the private well and the city water supply at any time. Hose bibs that will enable the cross connection of the two systems are prohibited on internal piping of the well supply system. Threads of the boiler drain of the well volume tank shall be removed or the boiler drain hose bib replaced with a sink faucet. Outside hose

bibs will not be installed on the municipal water system where dual water systems are in use.

- (b) *Sealing of well required.* A private well which has been declared to be a known or potential health hazard by resolution of the city council shall be sealed pursuant to the regulations of the department of health.

(Code 1997, § 600.21; Code 2007, § 50.41; Ord. No. 97-166, 3-6-2006)

5.04.200 Water-Cooled Air Conditioning System

No water-cooled air conditioning systems shall be connected to the water system.

(Code 1997, § 600.22; Code 2007, § 50.42; Ord. No. 97-29, 4-21-1998)

5.04.210 Operation Of Fire Hydrants

No persons, other than authorized city employees, shall operate fire hydrants or interfere in any way with the water system without first obtaining a permit to do so from the city, subject to the following conditions:

- (a) *Use of fire hydrant.* A permit to use a fire hydrant shall be issued for each individual job or contract for a minimum period of 30 days, and for additional 30-day periods as are requested and deemed necessary. The permit shall state the location of the hydrant and shall be for the use of that hydrant and none other.
- (b) *Deposit for use.* The user shall make an advanced cash deposit, as set forth from time to time by council resolution, to guarantee payment for water used and to cover breakage and damage to the hydrant or meter. This sum shall be refunded upon expiration of the permit, less applicable charges for use.
- (c) *Rental charge for use.* The user shall pay a rental charge, as set forth from time to time by resolution of the council, for each 30-day period or fraction of that 30-day period and the required amount for each 1,000 gallons of water used, as set forth from time to time by resolution of the council.

(Code 1997, § 600.23; Code 2007, § 50.43)

5.04.220 Sources Of Water Contamination

The following possible sources of contamination shall not be installed within 75 feet of any public well:

- (a) Building plumbing;
- (b) Building drains;
- (c) Septic tanks;

- (d) Storm sewers;
- (e) Sanitary sewers;
- (f) Cesspools;
- (g) Leaching pits; and/or
- (h) Drain fields.

(Code 1997, § 600.24; Code 2007, § 50.44)

5.04.230 Curb Stop Boxes

- (a) *Installation/location of stop box.* Curb stop boxes will be installed at a point on the property line most suitable to the property and shall be left in an accurate vertical position when backfilling is completed. One will be installed on each vacant platted lot. Curb stop boxes will be installed at an approximate depth of eight feet below the grade established by the owner. Type K copper tubing shall be used for installation of the water service.
- (b) *Connections to be made by licensed plumber.* All piping connections from curb box to house supply piping shall be made under the supervision of a licensed plumber.

(Code 1997, § 600.25; Code 2007, § 50.45)

5.04.240 Water Service Excavators

All water service excavation work shall be performed by water service excavators licensed by the city.

(Code 1997, § 600.26; Code 2007, § 50.46)

5.04.250 Water Meters

- (a) *Generally.*
 - (1) Except for extinguishing of fire, no person except authorized city employees shall use water from the water supply system or permit water to be drawn from the system unless the water is metered by passing through a meter supplied or approved by the city. No person not authorized by the city shall connect, disconnect, and take apart, or in any manner change or cause to be changed, or interfere with any meter or the action of the meter.
 - (2) a. *Water meter charge.* A charge for water meters, and meter

interface units, shall be paid to the city by customers for water meters in advance before meter interface unit delivery of the water meter for installation. The charge shall be determined by resolution by the council. Remote reading devices will be required on all water meters.

- b. *Meter repair/replacement.* The city shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. Where any replacement, or repair, or adjustment of any meter is necessary because of damage from hot water backup, damage from freezing water, or damage from any act, carelessness, or negligence of the owner or occupants of any premises, any expense incurred by the city to repair the damage shall be charged against and collected from the water consumer. Water service may be discontinued until the cause is corrected and the amount charged collected.
- c. *Meter re-readings.* When a consumer makes a complaint that the bill for any past services has been excessive, the city shall, upon written request, have the meter re-read. If the consumer remains dissatisfied and desires that the meter be tested, the consumer shall then make a deposit pursuant to the city's fee and deposit schedule, and the city shall test the meter. The consumer shall, if the consumer desires, be present when the test is made. In case a test should show an error of over five percent of the water consumed in favor of the city, the deposit will be refunded to the consumer, and a calibrated meter will be installed and the date of the written request and the minimum charge shall not be affected. In case the test shows an accurate measurement of water or an error in favor of the consumer, the amount deposited shall be retained by the city to cover part of the expenses of making the test, and the additional costs, if any, will be included on the next quarterly statement. The deposit charges for a meter testing are those set by resolution by the council.
- d. *Meters property of city.* All water meters shall be and remain the property of the city and may be removed or replaced or changed as to size and type by the city whenever deemed necessary.
- e. *Access for meter readings.* Authorized city employees shall have free access at reasonable hours of the day to all parts of every building and premises connected to the water system for reading of meters and inspection. The city administrator shall be authorized to make adjustments in water charges when, in the administrator's opinion, the amount billed is erroneous due to a meter deficiency or other mistake.

(b) *Installation of water meters.*

- (1) The installation of a water meter shall be installed at the time of structure construction, and shall meet the requirements of this section and shall not be installed prior to receiving a permit approved by the building official. The building official shall maintain permit application forms.
- (2)
 - a. *Installation.* Installation of the water meter, raising the curb box to finished grade, and flushing of the lines shall be the responsibility of a plumber duly licensed and registered according to state statute. The city's water department must perform turning on of the water service. The meter setting shall be provided as follows:
 1. Meter settings shall be located in the utility, laundry, or furnace room and in every case shall be located no more than eight feet from the nearest floor drain unless there is prior approval from the building official.
 2. The setting shall be installed to provide that the meter is between six and 12 inches from the wall and between 18 and 36 inches from the finished floor.
 3. The water meter shall have full accessibility with a clear space of three feet in all directions except as noted in subsection (b)(2)a.2 of this section.
 4. Each meter setting shall be provided with a ball valve on the street side and the house side of the meter. The valves shall be well protected from freezing. Meters one inch and larger shall be provided with ball valve, valved bypass (one nominal size less than inlet) and ball valve, valved drain outlet with iron pipe threads (plugged one nominal size less than inlet). This tee and ball valve shall be installed between the meter outlet and the meter outlet ball valve.
 5. Meter setting shall be accomplished with brass mechanical joint ahead of the inlet ball valve.
 6. A meter interface unit (MIU) shall be securely installed on the exterior surface of the wall closest to the water meter. A single RJ11 telephone jack receptacle shall also be installed on the exterior surface of the wall within 18 inches of the MIU. This jack receptacle shall be wired into the existing active telephone circuit. The water meter encoded register (ECR) shall be connected to the MIU with three-wire conductor type as specified by the water utility. The MIU shall be connected to the telephone jack with

telephone wire and a RJ11 jack plug. Use of wire ties or clips shall secure all wires.

- b. *Notification of completion of installation.* The water utility shall be notified that the meter setting is complete, at which time the water utility will inspect and approve the installation, seal the water meter, and program the MIU.
- c. *Stop and waste valve.* All meter installations shall have a stop and waste valve on the street side of the meter. There shall be no more than 12 inches of pipe exposed between the point of entrance through the basement floor and the stop and waste valve. A stop and waste valve shall also be installed on the house side of the meter. Meter setting devices for five-eighths-inch, three-fourths-inch, and one-inch meters shall be of copper pipe or tubing from the terminus of the service pipe up to and including the house side stop and waste valve. Gate valves shall be brass 125 pounds standard. There shall also be installed on the house side of the meter gate valve a three-fourths-inch side outlet tee and a two-inch by four-foot minimum air chamber or shock absorber, or an air chamber of equal volume.

(Code 1997, §§ 600.27, 600.28; Code 2007, § 50.47; Ord. No. 97-29, 4-21-1998)

CHAPTER 5.08 WASTE WATER TREATMENT SYSTEMS

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5.08.010 Intent And Purpose

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5.08.040 Generally

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5.08.010 Intent And Purpose

This subchapter is adopted for the purpose of protecting the health, safety and welfare of the residents of the city through regulating the location, design, installation, use and maintenance of individual sewage treatment systems so as to prevent contamination of surface waters and groundwaters.

(Code 1997, § 700.02; Code 2007, § 51.001; Ord. No. 08-029, 9-21-2010; Ord. No. 08-159, 12-6-2016)

5.08.020 Regulations Adopted By Reference

Chapter four of the county development code entitled, "Subsurface Sewage Treatment Systems Regulations," Ordinance # 196 (the county regulations), with the exception of sections 3.1, 3.3, 3.4, 22.10, 23, 26.3, 28.1, and 29.1, is hereby adopted by reference and made part of this chapter. Whenever the term "department" appears in the county regulations, it shall mean the city planning department. Whenever the term "county" appears in the county regulations, it shall mean the City of Lake Elmo, except as used in section 3.14 of the county regulations. Whenever the term "local unit of government" appears in the county regulations, it shall mean the City of Lake Elmo.

(Code 2007, § 51.002; Ord. No. 08-029, 9-21-2010; Ord. No. 08-159, 12-6-2016)

5.08.030 Exceptions To County Regulations

The following provisions are adopted in addition to the county regulations and are more restrictive than the county regulations: Mound systems are not allowed for new collector systems in the OP Open Space Preservation District except to replace existing noncompliant systems.

(Code 2007, § 51.003; Ord. No. 08-029, 9-21-2010; Ord. No. 08-159, 12-6-2016)

5.08.040 Generally

- (a) General requirements; community sewage treatment systems.
 - (1) Lawful connections to community sewage treatment systems will be allowed, with a city permit.
 - (2) When an existing individual sewage treatment system is failing and the property in question is near the community sewage treatment system, provided capacity is available in all components of the community sewage treatment system.
 - (3) A new connection to a community sewage treatment system will not be permitted for new construction, unless the previous structure in which the new construction occurs was previously connected to the existing community sewage treatment system. In that event, a city permit is required.
- (b) The fee for new connections will be determined by the city. The new user will be responsible for paying all costs to connect to the system, plus a charge to pay for previously built drainfield areas.
- (c) No persons shall uncover, make any connections with or opening into, use, alter,

or disturb any community sewage treatment system or appurtenance of the system without first obtaining a written permit from the city. This provision shall not apply to certified qualified employees performing tasks within their area of certification for which a permit is not required. The definition of the term "certified qualified employee" shall be as set forth in the county regulations.

(Code 1997, § 700.04; Code 2007, § 51.004; Ord. No. 97-105, 4-2-2002; Ord. No. 08-029, 9-21-2010; Ord. No. 08-159, 12-6-2016)

5.08.050 Administration Board Of Adjustment And Appeals

(a) Administrative appeals.

- (1) An aggrieved party may appeal a decision by the permitting authority regarding the interpretation or application of the provisions of LEC 5.08.010 et seq.
- (2) Appeals shall be reviewed and determined by the city's board of adjustment and appeals.

(b) Variance procedures.

- (1) Request for variances to the provisions of LEC 5.08.010 et seq. shall be reviewed pursuant to the procedures and standards contained in the zoning code.
- (2) No variances with respect to sections 4.1, 4.7, 4.8, 4.9, and 16.2(1) through 16.2(4) of the county regulations will be considered or granted by the city. The city may grant a variance with respect to section 4.8(4)(A) of the county regulations for replacement MSTs serving existing dwellings or other establishments.

(Code 2007, § 51.005; Ord. No. 97-124, 11-18-2003; Ord. No. 08-029, 9-21-2010; Ord. No. 08-159, 12-6-2016)

5.08-II MUNICIPAL SANITARY SEWER SYSTEM

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5.08.060 General Operation

The municipal sanitary sewer system shall be operated as a public utility and convenience from which revenues will be derived, subject to the provisions of this chapter.

(Code 1997, § 705.01; Code 2007, § 51.020)

5.08.070 Definitions

Unless specifically defined within LEC 5.08.060 et seq., common definitions, words, and phrases used in LEC 5.08.060 et seq. shall be interpreted so as to give them the same meaning throughout this Code, and are found in LEC 1.08.

(Code 1997, § 705.02; Code 2007, § 51.021)

5.08.080 Connections With Sewer Required

- (a) Any building used for human habitation or in which a toilet or other plumbing facility for the disposal of human waste is installed and located on property adjacent to a sewer main, or in a platted block through which the system extends, shall be connected to the municipal sanitary sewer system within two years from the date on which a connection is available to the building.
 - (1) Any owner of any residential property that has a building failing to meet the two-year connection deadline set forth in subsection (a) of this section will be charged the city's residential sewer base charge as set forth in the city's fee schedule. The owner of a commercial or industrial property that has a building failing to meet the two-year connection deadline set forth in subsection (a) of this section will be charged the city's sewer base fee for each residential equivalent unit as determined by the project feasibility report, metropolitan council determination, or similar estimate.
 - (2) Properties with buildings failing to connect within two years to the municipal sanitary sewer system may not be sold, conveyed, or transferred until connection occurs. Properties that have buildings that will be demolished after sale, transfer, or conveyance are exempted from this provision, provided that a demolition permit for the building has been issued by the city.
- (b) All buildings subsequently constructed within the city on property adjacent to a sewer main or in a platted block through which the municipal sanitary sewer system extends, shall be provided with a connection to the sewer system for the

disposal of human waste.

(Code 1997, § 705.03; Code 2007, § 51.022; Ord. No. 08-139, 6-21-2016; Ord. No. 08-204, § 1, 4-3-2018)

5.08.090 Supervision Of Sewer Connections

- (a) The building official shall supervise all sewer connections made to the municipal sanitary sewer system and excavations for installing or repairing the connections.
- (b) All sewer installers shall verify the location and elevation of a sewer connection stub by securing a written statement from the city engineer before proceeding with the installation of the sewer house connection.
- (c) The city engineer shall not deviate from the planned location without written permission from the council.

(Code 1997, § 705.04; Code 2007, § 51.023)

5.08.100 Permits

- (a) Persons desiring a connection to the municipal sanitary sewer system shall apply to the city for a permit. The application shall be made on forms furnished by the administrator and shall be accompanied by plans, specifications, and other information required by the building official, together with a permit fee as set forth from time to time by resolution of the council. When reinspection is necessary, a fee as set forth from time to time by resolution of the council for the reinspection shall be paid. All costs and expenses incident to the installation and connection shall be borne by the owner, and the owner shall indemnify the city for any loss or damage that may, directly or indirectly, be occasioned by the installation of the sewer connection, including restoring streets and street surfaces.
- (b) Permits for connections will be issued only to the property owner or to a person duly licensed to make the connection under the provisions of this chapter.

(Code 1997, § 705.05; Code 2007, § 51.024)

5.08.110 Connection Charge

- (a) A connection charge as determined by resolution of the council and the permit fee as set forth from time to time by resolution of the council shall be paid at the time of making application for a connection to the municipal sanitary sewer system.
- (b) Before a permit shall be issued, the following conditions shall be complied with:
 - (1) *Permit requirements.* No permit shall be issued to connect any lot or tract

of land with the municipal sanitary sewer system of the city, either directly or indirectly, unless it shall be determined that:

- a. The lot or tract of land to be served by the connection has been assessed for the cost of construction of the sanitary sewer main with which the connection is made;
- b. If no assessment has been levied for the construction cost, the proceedings for levying the assessment have been or will be commenced and completed in due course; or
- c. If no assessment has been levied, and no assessment proceedings will be completed in due course, a sum equal to the portion of cost of construction of the sanitary sewer main which would be assessable against the lot or tract has been paid to the city.

(2) Additional connection fee.

- a. If none of the above conditions are met, no permit to connect to any sanitary sewer main shall be issued unless the applicant shall pay an additional connection fee which shall be equal to the portion of the cost of construction of the sanitary sewer main which would be assessable against the lot or tract to be served by the connection.
- b. The assessable cost is to be determined by the administrator upon the same basis as any assessment previously levied against other property for the main.
- c. If no assessment has been levied, the assessable cost will be determined upon the basis of the uniform charge which may have been or which shall be charged for similar connection with the sanitary sewer main, determined on the basis of the total assessable cost of the main, allocated on a frontage basis, acreage basis, or both.

(Code 1997, § 705.06; Code 2007, § 51.025)

5.08.120 Types Of Wastes Prohibited

(a) *Unlawful discharges.* It is unlawful to discharge any of the following described waters or wastes into the municipal sanitary sewer system:

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit;

- (2) Any water or waste containing more than 100 parts per million by weight of fat, oil, or grease;
- (3) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides;
- (4) Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system;
- (5) Any wastewater containing toxic pollutants, including pesticides and herbicides, in sufficient quantity, either singularly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Clean Water Act of 1977, as amended;
- (6) Any garbage that has not been properly shredded;
- (7) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, plastics, wood, manure, or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage system;
- (8) Any waters or wastes containing suspended solids of a character and quantity that unusual attention or expense is required to handle the materials at the sewage treatment plant;
- (9) Any noxious or malodorous gas or substance capable of creating a public nuisance; and/or grease, oil, and sand interceptors shall be provided when, in the opinion of the building official, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any inflammable wastes, sand, or other harmful ingredients; except that the interceptors shall not be required for private dwelling units which discharge only normal wastes. Grease and oil interceptors shall be of substantial construction, watertight, and equipped with easily removable covers, which, when bolted in place, shall be gastight and watertight. All grease, oil, and sand interceptors shall be maintained by the owner, at owner's expense, and in continuously efficient operation at all times.

(b) *Substances prohibited.*

(1) No person shall discharge or cause to be discharged directly or indirectly the following described substances to any public sewers unless, in the opinion of the city, the discharge will not harm the municipal sanitary sewer system facilities, nor cause obstruction to free flow in sewers, nor otherwise endanger life, limb, or public property, nor constitute a nuisance. In forming its opinion as to the acceptability of the wastes, the city may give consideration to the factors as the materials or construction of the sewers, nature of the sewage treatment process, capacity of the municipal sanitary sewer system facilities, the city's SDS/NPDES permit and other pertinent factors. The city may make the determination either on a general basis or as a discharges from individual users or specific discharges, and may prohibit certain discharges from individual users because of unusual concentrations or combinations which may occur.

(2) The substances prohibited are:

- a. Any waters or wastes containing strong acid, iron and pickling wastes, or concentrated plating solutions, whether neutralized or not;
- b. Any waters or wastes containing phenols or other taste or odor-producing substances which constitute a nuisance or hazard to the structures, equipment, or personnel of the sewage works, or which interfere with the treatment required to meet the requirements of the state or federal government, or any other public agency with proper authority to regulate the discharge from the sewage treatment plant; and
- c. Any radioactive wastes or isotopes of the half-life or concentration that they are not in compliance with regulations issued by the appropriate authority having control over their use or may cause damage or hazards to the treatment works or personnel operating it.

(c) *Water runoff discharge prohibited.* It shall be unlawful to discharge or cause to be discharged into the municipal sanitary sewer system, either directly or indirectly, any roof water, stormwater, surface water or groundwater of any type or kind, or water discharged from any air conditioning unit or system.

(Code 1997, § 705.08; Code 2007, § 51.026)

5.08.130 Pretreatment, Control, And Refusal Of Extraordinary Wastes

(a) *Generally.*

(1) If any waters or wastes are discharged, or are proposed to be discharged directly or indirectly to the public sewers, which waters or wastes do not

meet the standards set out in or promulgated under this section, or which in the judgment of the city may have a deleterious effect upon the treatment facilities, processes, equipment, and soil, vegetation, and groundwater or which otherwise create a hazard to life, or constitute a public nuisance, the city may take all or any of the following steps:

- a. Refuse to accept the discharges;
- b. Require control over the quantities and rates of discharge;
- c. Require pretreatment to an acceptable condition for the discharge to the public sewers; and/or
- d. Require payment to cover the added cost of handling or treating the wastes.

- (2) The design and installation of plant or equipment for pretreatment or equalization of flows shall be subject to the review and approval of the city, and subject to the requirements of 40 CFR 403, as it may be amended from time to time, entitled, "Pretreatment Standards," and the state pollution control agency.

(b) *Operation and maintenance; preliminary treatment.* Where preliminary treatment, flow equalization, or interceptors are required for any water or waste, they shall be effectively operated and maintained continuously in satisfactory and effective condition by the owner at owner's expense and shall be available for inspection by the city at all reasonable times.

(c) *Control; observation devices.*

- (1) When required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes.

- (2) The structure and equipment, when required, shall be constructed at the owner's expense in accordance with plans approved by the city and shall be maintained by the owner so as to be safe and accessible at all times.

(d) *Sampling.* All measurements, tests, and analysis of the characteristics of water and waste to which reference is made in this section shall be determined in accordance with 40 CFR 136, as it may be amended from time to time, Guidelines Establishing Test Procedures for the Analysis of Pollutants; the latest edition of Standard Methods for the Examination of Water and Waste Water; and shall be determined at the control structure provided, or upon suitable samples taken at the control structure. If no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the

public sewer from the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effluent constituents and their effect upon the treatment works and to determine the existence of hazards to life, health, and property. Sampling methods location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the city.

- (e) *Proof of compliance.* The owner of any property serviced by a building sewer carrying industrial wastes shall, at the discretion of the city, be required to provide laboratory measurements, tests, and analysis of waters or wastes to illustrate compliance with LEC 5.08.060 et seq. and any special condition for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analysis to be performed by the owner shall be as stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the federal, state, and local standards are being met. The owner shall bear the expense of all measurements, analysis, and reporting required by the city. At the times as deemed necessary, the city reserves the right to take measurements and samples for analysis by an outside laboratory.
- (f) *New connections; sufficient capacity.* New connections to the sanitary sewer system shall be prohibited unless sufficient flow capacity is available in all downstream facilities.
- (g) *Special considerations.* No statement contained in LEC 5.08.060 et seq. shall be construed as preventing any special agreement or arrangement between the city and any industrial concern where an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment for the special agreement/arrangement by the industrial concern, providing that National Categorical Pretreatment Standards and the city's NPDES and/or state disposal system permit limitations are not violated.

(Code 1997, § 705.09; Code 2007, § 51.027)

5.08.140 Tampering With Municipal Sanitary Sewer System Prohibited

No person shall maliciously, willfully, or negligently damage, destroy, uncover, deface, or tamper with any part of the municipal sewer system.

(Code 1997, § 705.10; Code 2007, § 51.028)

5.08.150 Entry Upon Private Property

The building official, bearing proper credentials and identification, shall at reasonable times be permitted to enter upon all properties connected to the municipal sanitary sewer system for the purpose of inspection, observation, measurement, sampling, and testing in connection with the operation of the municipal sanitary sewer system.

(Code 1997, § 705.11; Code 2007, § 51.029)

5.08.160 Maintenance Of Municipal Sanitary Sewer Connections

Each property owner shall be responsible at all times for the maintenance of owner's sewer connection to the municipal sanitary sewer system, and shall have the obligation to keep the connection in good repair, to the end that there shall be no interference or obstruction to the sewer system as a whole, nor shall there be any violation of this chapter, and the laws of the state. The building official is authorized to make the inspections of the sewer connections as the building official may deem necessary to accomplish this purpose, and the property owner shall be responsible for carrying out the instructions as the building official deems necessary to accomplish this purpose.

(Code 1997, § 705.12; Code 2007, § 51.030)

5.08.170 Rates And Charges

Except as provided in LEC 5.08.060 et seq., the council shall prescribe by resolution the rates to be charged for sewer service and the method of billing and payments. Delinquent accounts may be assessed against the respective property served.

(Code 1997, § 705.13; Code 2007, § 51.031)

5.08.180 Establishment Of Strength Charges

- (a) The metropolitan waste control commission, a metropolitan commission organized and existing under the laws of the state (the Commission), in order to receive and retain grants in compliance with the federal Water Pollution Control Act Amendments of 1972 (the Acts), as amended from time to time, and the regulations under the Act, has determined to impose an industrial user sewer strength charge upon users of the metropolitan disposal system (as defined in M.S.A. § 473.121, subd. 24, as it may be amended from time to time) to recover operation and maintenance costs of treatment works attributable to the strength of the discharge of industrial waste; the sewer strength charge being in addition to the charge based upon the volume of discharge. In order for the city to pay the costs based upon strength of industrial discharge and allocated to it each year by the commission, it is found, determined, and declared to be necessary to establish sewer strength charges and a formula for the computation of the charges for all industrial users receiving waste treatment services within or served by the city. Furthermore, M.S.A. § 444.075, subd. 3, as it may be amended from time to time, empowers the city to make the sewer charge a charge against the owner, lessee, occupant, or all of them and certify unpaid charges to the county auditor as a tax lien against the property served.
- (b) For the purpose of paying the costs allocated to the city each year by the metropolitan waste control commission that are based on the strength of

discharge of all industrial users receiving waste treatment service within or served by the city, in addition to sewer charge based on volume of discharge, a sewer charge shall be made upon each person, company, or corporation receiving waste treatment services within or served by the city, based upon strength of industrial waste discharged into the sewer system of the city, the charges referred to as "strength charge."

- (1) *Establishment of strength charge formula.* For the purpose of computation of the strength charge established by this section, there is established, approved, and adopted the same strength charge formula designated in Resolution No. 76-172 adopted by the metropolitan waste control commission on June 15, 1976, a formula based upon pollution qualities and difficulty of disposal of the sewage produced through an evaluation of pollution qualities and quantities in excess of an annual average base and the proportionate costs of operation and maintenance of waste treatment service provided by the commission.
- (2) *Strength charge payment.* The strength charge established by this section shall be paid by each industrial user receiving waste treatment services and subject to the charge before the 20th day next succeeding the date of billing of the charge to the user by or on behalf of the city. The payment of the charge shall be deemed to be delinquent if not paid to the billing entity before the date. If the payment is not paid before the date, an industrial user shall pay interest compounded monthly at the rate of two-thirds of one percent per month on the unpaid balance due.
- (3) *Establishment of tax lien.*
 - a. As provided by M.S.A. § 444.075, subd. 3, as it may be amended from time to time, if payment of the strength charge established by this section is not paid before the 60th day next succeeding the date of billing of the charge to the industrial user by or on behalf of the city, the delinquent sewer strength charge, plus accrued interest, shall be deemed to be a charge against the property served, and the city or its agent shall certify the unpaid delinquent balance to the collection as other taxes are collected.
 - b. The certification shall not preclude the city or its agent from recovery of the delinquent sewer strength charge and interest on the charge under any other available remedy.

(Code 1997, § 705.14; Code 2007, § 51.032)

5.08-III COMMUNITY SEWAGE TREATMENT SYSTEM SERVICE CHARGE

[5.08.190 Intent And Purpose](#)

[5.08.200 Regulations](#)

[5.08.210 Determination Of Community Sewage Treatment System Service Charge](#)

[5.08.220 Delinquent Accounts; Revocation](#)

[5.08.230 Community Sewage Treatment System Service Fund](#)

5.08.190 Intent And Purpose

The provisions of LEC 5.08.190 et seq., are adopted for the purpose of:

- (a) Setting forth the requirements for accruing revenues to enable the city to comply with the state and federal laws and to provide sufficient revenues to financially balance expenditures for the administration of those wastewater systems within the city constructed with federal and state grant funds; and
- (b) Charging those users of the wastewater utilities within the city, which are constructed with federal and state grant funds, for the operation, maintenance, and replacement costs in proportion to use.

(Code 1997, § 710.02; Code 2007, § 51.045)

5.08.200 Regulations

- (a) The city has established a wastewater service charge system whereby revenues collected from users of the wastewater treatment facilities will be used to offset all expenditures incurred for administration, annual operation and maintenance, and equipment replacement.
- (b)
 - (1) A passive maintenance program shall be required of all those properties utilizing individual on-site sewage treatment systems while all properties connected to community collection and treatment systems, cluster system, or individual off-site treatment systems shall be on the active maintenance program.
 - (2) For those properties on the passive maintenance program, the property owner shall be responsible for the cost of operating, maintaining, and replacing owner's system. This will include arranging for all repairs and maintenance to septic tanks, pipes, pumps, controls, drain fields, as well as septic tank pumping. The property owner shall report all problems and the steps taken to alleviate the problems to the city administrator. The city will supply inspection cards to the pumpers within the city. When a septic tank is pumped, the tank will also be inspected by the pumper and the signed inspection card returned to the city. The city shall, at regular intervals, and at least biennially, determine which septic tanks have not been inspected and/or pumped. If owners on passive maintenance fail to pump their septic tanks or to return the inspection card, the city will, at its option, inspect the system and perform the required maintenance. All costs of the inspection and maintenance shall be charged to the property

owner.

- (3) For those properties on the active maintenance program, the city shall be responsible for operating, maintaining, and replacing the collection and final treatment and disposal system. The city shall arrange for all repairs and maintenance on sewers, lift stations, controls, and drain fields. The property owner shall be responsible for all repairs and maintenance to septic tanks, including septic tank pumping, and to all individual pump stations and sewer pipes up to the collector sewer or final treatment and disposal system. Unless otherwise prescribed, city ownership and the city's responsibility for conducting operation, maintenance, and replacement shall begin at the property line.
 - (4) If owners on active maintenance fail to pump their septic tanks or to return the inspection card, the city will, at its option, inspect the system and perform the required maintenance. All costs of the inspection and maintenance shall be charged to the property owner. Property owners shall report all problems to the city administrator, who will determine responsibility for their correction. Damages caused by the abuse of the system by the property owner will be repaired by the city and assessed against the property owner.
 - (5) When it has been determined that maintenance and replacement is necessary on an individual or community sewage treatment system (apart from septic tank pumping addressed above), the maintenance and replacement shall be accomplished in a manner acceptable to the city. Replacement parts, equipment, and appurtenances shall be of a design and quality acceptable to the city and shall be installed in a manner acceptable to the city and in conformance with requirements of Minn. R. ch. 7080, Individual Sewage Treatment Systems, as it may be amended from time to time. In the absence of Code provisions or in the amplification of Code provisions, materials and procedures shall be as set forth in appropriate specifications of the ASTM, and WPCF Manual of Practice No. 9. Replacement effected on individual systems shall be reported to the sewer authority.
- (c) Community sewage treatment system service charges will be established based on equivalent residential units (ERU). One ERU is defined as a unit of wastewater volume of 250 gallons per day with a theoretical waste strength of 250 mg/L of BOD and 300 mg/L of total suspended solids. The assignment of ERUs will be made by the city administrator in accordance with Tables I and II of Appendix A.
 - (d) In accordance with federal and state requirements, each user will be notified annually at the beginning of each calendar year of the user charge rates attributable to wastewater treatment services.

- (e) In accordance with federal and state requirements, the city will be responsible for maintaining all records necessary to document compliance with the wastewater service charge system adopted.

(Code 1997, § 710.05; Code 2007, § 51.046)

5.08.210 Determination Of Community Sewage Treatment System Service Charge

(a) *Intent.*

- (1) It is the intent of LEC 5.08.190 et seq. that the user charges shall cover the costs of operating and maintaining the wastewater systems, and that costs are recovered from all users in a proportionate manner. The city administrator shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement, and debt retirement costs of the collection and treatment facilities.
- (2) These costs shall be reviewed at regular annual intervals. The city shall determine whether or not sufficient revenue is being generated for the effective operation and maintenance and management of the wastewater system, and that user charges are being distributed proportionately to all users. Any inequities and/or shortages shall be corrected by adjusting the rates accordingly by council resolution.
- (3) The annual user charge per equivalent residential unit is described as follows:

a. User charge rate per equivalent residential unit:

$$\frac{Uc}{ERU} = \frac{Comr}{Total\ ERUs}$$

b. Where:

1. Uc = Annual user charge;
2. Comr = Total annual OM&R costs;
3. ERU = Equivalent residential unit; and
4. Total ERUs = The total number of ERUs connected to community sewage treatment systems.

(b) *Use formula.* All users shall be charged in accordance with the methodology described below.

(1) a. Individual off-site or clustered sewage treatment units:

$$SCC = \frac{Uc}{ERU} * \#ERU + Ac$$

b. Where:

1. SCC = Sewer service charge;
2. Uc = User charge for operation, maintenance, and replacement;
3. Ac = Administration charge; and
4. #ERU = Number of ERUs assigned to a particular connection.

(2) a. Individual on-site sewage treatment units:

$$SCC = Ac$$

b. Where:

1. SCC = Sewer service charge; and
2. Ac = Administration charge.

(c) *Basis for annual user charge.* All users of the wastewater treatment facilities shall be charged annually for sewer service based on the number of equivalent residential units assigned to each and based on whether the unit is seasonal or year-round.

(d) *Additional requirements.*

- (1) If a user discharges toxic pollutants or wastes of unusual strength of character to the treatment facilities which cause or increase the operation and maintenance costs, the user shall be ordered either to install pretreatment facilities or pay for the extra costs of treating the wastes.
- (2) This decision will be made by the city administrator at the time the user begins to discharge extra strength wastes.

(Code 1997, § 710.06; Code 2007, § 51.047)

5.08.220 Delinquent Accounts; Revocation

(a) *Delinquent accounts.* Any bill not paid for four weeks after date of billing shall be declared delinquent and a past-due notice shall be issued to the billed party. The past-due notice shall contain an additional charge to cover the costs of the rebilling. Additional delinquent notices including their respective charges shall be sent at eight and 12 weeks after the billing date. Should a bill still be delinquent after 120 days, the city may elect to take the following actions:

(1) *Tax.* Whenever wastewater service charge bills become delinquent, the amount due shall be certified to the city auditor for inclusion with the following year's tax statement.

(2) *Lien.* Whenever wastewater treatment bills become delinquent, the same shall become and constitute a lien upon the real estate to which the sewer service is supplied. Statements rendered for the charge shall be deemed notice to all parties, whether or not the person charged with the statement is the owner of the property served. The claim for lien shall be made in the form of a sworn statement setting forth:

- a. A description of the real estate, sufficient for the identification of the real estate, upon or for which the sewage service was supplied;
- b. The amount of money due for the sewage service; and
- c. The date or dates when the amount or amounts became delinquent. If all amounts shown due remain unpaid after recording as provided by state statutes, the city may foreclose the lien in the same manner and with the same effect as in the foreclosure of mortgages on real estate.

(3) *Civil action.*

- a. In the alternative of levying a lien, the city may, at its discretion, file suit in a civil action to collect the amounts as are delinquent and due against the occupant or user of the real estate and shall collect, as well, all attorney's fees incurred by the city in filing the civil action.
- b. The attorney's fees shall be fixed by order of the court.

(b) *Delinquent account penalties.* In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being served by the treatment works shall be liable for

interest upon all unpaid balances at the rate of 12 percent per annum.

- (c) *Revocation.* The city reserves the right to revoke discharge permits and to disconnect service to any user whenever wastewater treatment becomes delinquent.

(Code 1997, § 710.07; Code 2007, § 51.048)

5.08.230 Community Sewage Treatment System Service Fund

(a) *Purpose.*

- (1) The city, by LEC 5.08.190 et seq., establishes a sewer service fund as an income fund to receive all revenues generated by the sewer service charge system, and all other income dedicated to the operation, maintenance, replacement, and construction of the wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt.
- (2) The city also establishes the following accounts as income and expenditure accounts within the sewer service fund:
 - a. Operation and maintenance account;
 - b. Equipment replacement account; and
 - c. Debt retirement account.

(b) *Management of funds.*

- (1) All revenue generated by the sewer service charge system, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the clerk separate and apart from all other funds of the city.
 - (2) Funds received by the sewer service fund shall be transferred to the operation and maintenance account, the equipment replacement account, and the debt retirement account in accordance with state and federal regulations and the provisions of LEC 5.08.190 et seq.
- (c) *Replacement.* Revenue generated by the sewer service charge system sufficient to ensure adequate replacement throughout the design or useful life, whichever is longer, of the wastewater facility shall be held separate and apart in the equipment replacement account and dedicated to effecting replacement costs. Interest income generated by the equipment replacement account shall remain in the equipment replacement account.
- (d) *Operation and maintenance.* Revenue generated by the sewer service charge

system sufficient for operation and maintenance shall be held separate and apart in the operation and maintenance account.

(Code 1997, § 710.08; Code 2007, § 51.049)

5.08-IV ALTERNATIVE WASTE DISPOSAL SYSTEMS; WETLAND TREATMENT SYSTEMS

5.08.240 Intent And Purpose

5.08.250 Rules

5.08.240 Intent And Purpose

- (a) *Health, safety, and welfare.* The purpose of the provisions of LEC 5.08.240 et seq., is to protect the health, safety, and welfare of the residents of the community, present and future.
- (b) *Contamination of surface/groundwater.* The purpose of LEC 5.08.240 et seq. is to regulate the location, design, installation, use, and maintenance of alternative waste disposal systems so as to prevent the contamination of the surface water and groundwater within the community.
- (c) *Contamination of private water supply wells.* The intent of LEC 5.08.240 et seq. is to protect the individual water supply wells of the community from contamination by inadequate, improperly designed, located, installed, or maintained individual and community sewage treatment systems.
- (d) *Open space development.* The intent of LEC 5.08.240 et seq. is to allow subsurface flow wetland treatment systems to be an allowed alternative system within cluster developments.

(Code 1997, § 720.02; Code 2007, § 51.065)

5.08.250 Rules

- (a) *Specifications which apply.* This chapter shall apply, except as provided in LEC 5.08.030. Each dwelling shall have its own sewage tank and a stilling tank shall be installed before the first cell.
- (b) *Location of systems.*
 - (1) *Setbacks.*
 - a. All components of a wetland treatment system within a new residential or commercial development, including stilling tanks, pump stations, and treatment cells, shall be located a minimum of 100 feet from any property line, and 200 feet from any existing or proposed home. Stilling tanks may, however, be located 50 feet

from a street right-of-way.

- b. Wetland treatment systems used to replace failed septic systems shall have setbacks considered reasonable for the site and the neighboring properties.

- (2) *Groundwater.* Treatment cells shall have a minimum of three feet between the bottom of the cell and the groundwater table. Drain tile or French drains shall not be used to artificially lower the groundwater table.

(c) *System design.*

- (1) *Designer.* Wetland treatment systems shall be designed by a registered professional engineer with experience and specific training in the design of these types of systems.

- (2) *Design flow.* Wetland treatment systems shall be sized based on a minimum of 50 gallons per day per person.

- (3) *Level of treatment.*

- a. Wetland treatment systems shall be designed to remove total suspended solids (TSS), phosphorous (P), total nitrogen (TN), and fecal coliforms (FC), and reduce the five-day carbonaceous biochemical oxygen demand (CBOD5). Calculations showing the design level of treatment shall be submitted.

- b. Prior to discharge into the infiltration cell, the following discharge limits shall be met:

- 1. CBOD5: 50 mg/L;
- 2. TSS: 20 mg/L;
- 3. TN: 15 mg/L;
- 4. NH4: ten mg/L;
- 5. TP: five mg/L; and
- 6. FC: 200 mg/L.

- c. One foot below the infiltration cell, the following discharge limits shall be met:

- 1. CBOD5: zero mg/L;
- 2. TSS: zero mg/L;
- 3. TN: five mg/L;
- 4. NH4: one mg/L;

5. TP: one mg/L; and

6. FC: ten mg/L.

(4) *Inspection points.* Inspection and monitoring ports shall be located within the system so that the water level can be determined, and a water sample can be easily taken in each treatment cell, and one foot below the infiltration cell.

(5) *Operating plan.* An operating plan shall be developed by the designer. This plan shall include standard operating procedures and maintenance of the system.

(6) *Monitoring plan.*

a. Systems designed for greater than 1,500 gallons per day shall have a monitoring plan developed by the designer. It shall include monitoring of sludge and scum levels in the septic tanks and pumping stations, and effluent flow into the system. Water quality exiting the first treatment cell shall be monitored to ensure that it meets the design level of treatment. Monitoring one foot below the second treatment cell shall be done to ensure that it meets the design level of treatment. Monitoring shall be conducted annually.

b. The city shall be sent a copy of all test results.

(7) *Mitigation plan.* The system designer shall develop a plan to follow in case expansion or abandonment of the system is necessary.

(8) *City review.* The city shall review and approve all parts of the system design and associated plans prior to any construction taking place. Once approval of the system is given, a permit shall be issued by the city.

(d) *Construction.*

(1) *Sanitary sewers.* All sanitary sewers shall be constructed and tested in accordance with the City Engineers' Association of Minnesota Standards for Utility Construction.

(2) *Treatment cells; testing.*

a. Liners of treatment cells shall be visually inspected for tears, holes, or poor seams prior to placing rock. A leak test shall be performed after the rock is in place. The liner shall be uncovered, repaired, and the test rerun if any leaks show up during this testing.

b. A city representative shall be present for all treatment cell testing.

(3) *Turf establishment; plant growth.*

- a. The designer shall prepare a vegetation plan to establish a wetland community over the treatment cells.
- b. Prior to final acceptance, wetland plants shall display vigorous growth, and turf shall be established outside of the treatment cell area.
- c. No erosion shall be present on the site.

(4) *Certification.* The system designer shall certify in writing to the city that the treatment system has been constructed in accordance with the approved plans and specifications, and that all test requirements have been met. This certification must be received before start-up of the system.

(Code 1997, § 720.03; Code 2007, § 51.066)

CHAPTER 5.12 SOLID WASTE

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5.12-I GARBAGE, REFUSE, WASTE MATERIALS, AND RECYCLING

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5.12.010 Purpose

The general purpose of LEC 5.12.010 et seq., is for the following:

- (a) To protect the public health, safety, comfort, convenience, and general welfare of the residents of the city;
- (b) To establish powers, duties, rules, regulations, and standards for the removal of solid waste from the city;
- (c) To promote a program to reduce waste materials purchased and promote yard waste reduction through separation of recyclables, yard and garden wastes; and encourages the purchasing of products that contain recycled or recyclable materials;
- (d) To set minimum standards and requirements established by rules of the state pollution control agency;
- (e) To adopt the plans, policies, rules, standards, and requirements of the metropolitan council and the county regarding solid waste; and
- (f) To provide for the administration of LEC 5.12.010 et seq.

(Code 1997, § 800.02; Code 2007, § 52.01; Ord. No. 97-41, 9-21-1999)

5.12.020 State Rules Adopted

Minn. R. ch. 7035, as amended from time to time, is hereby adopted by reference as part of LEC 5.12.010 et seq., as it applies to cities.

(Code 1997, § 800.02; Code 2007, § 52.02; Ord. No. 97-41, 9-21-1999)

5.12.030 Metropolitan Council Plan Adopted

The Solid Waste Management Development Guide/Policy Plan of the Metropolitan Council of the Twin Cities Area, adopted March 1985, Publication No. 12-85-059, is hereby adopted by reference as part of LEC 5.12.010 et seq., as it applies to cities.

(Code 1997, § 800.02; Code 2007, § 52.03; Ord. No. 97-41, 9-21-1999)

5.12.040 Conflict

In case of conflict between LEC 5.12.010 et seq. and Minn. R. ch. 7035, as amended from time to time, or the metropolitan council plan, the terming and meaning of Minn. R. ch. 7035, as amended from time to time, or the metropolitan council plan shall prevail.

(Code 1997, § 800.02; Code 2007, § 52.04; Ord. No. 97-41, 9-21-1999)

5.12.050 Required Collection Of Mixed Municipal Solid Waste

- (a) Every residential dwelling, multiple dwelling, and commercial/industrial establishment must be under a contract for at least weekly collection of mixed municipal solid waste.
- (b) A residential dwelling, multiple dwelling, or commercial/industrial establishment may apply to the council or its designee for an exemption from this requirement if the applicant presents a plan, acceptable to the council or its designee, to ensure an environmentally sound alternative.

(Code 1997, § 800.02; Code 2007, § 52.06; Ord. No. 97-41, 9-21-1999)

5.12.060 Disposal Requirements

- (a) It shall be unlawful for any person, firm, or corporation to fail to dispose of garbage, refuse, and waste materials in a sanitary manner which may be or may accumulate upon property owned or occupied at least as often as hereinafter provided. All garbage and refuse shall be stored out of sight of neighbors and not visible from the street, except with permission from the building inspector and then not longer than 72 hours.
- (b) Targeted recyclables shall be source separated, placed in separate containers, and set out with the regular pick-up of garbage/refuse. Recycling shall be voluntary at this time but the separation of targeted recyclables from the refuse is encouraged. The hauler shall not landfill or incinerate any targeted recyclable materials collected, nor sell, trade, or give materials to any person or business for the purpose of landfilling or incinerating the materials without the prior written consent of the city.
- (c) Yard waste shall be separated from other refuse.
- (d) Contractor's waste building materials, which accumulate on construction sites, must be contained within an enclosure to prevent matter from escaping. Enclosures can be a fenced-in area or a dumpster. The capacity of the enclosure must be sufficient for the project or planned removal (pick-ups) must be scheduled. Waste materials cannot be stored in the structure. Failure to contain and control waste building materials will result in a stop work order.
- (e) Disposing of garbage, refuse, targeted recyclables, waste materials, or yard waste in an unregulated manner on any street, alley, drive, park, playground, or other public place or on any occupied or vacant privately-owned lot shall constitute a violation of LEC 5.12, whether the material is discarded by the individual upon whose premises the material originates or whether it is discarded by some other person or collector, licensed or unlicensed.
- (f) Any person, firm, business, or corporation that picks up garbage, refuse, or waste materials for the city, including, but not limited to, its city office, city parks, city maintenance department, or city fire department, must dispose of garbage,

refuse, or waste materials at the resource recovery facility in Newport, Minnesota.

(Code 1997, § 800.02; Code 2007, § 52.07; Ord. No. 97-41, 9-21-1999)

5.12.070 Container Required And Placement

- (a) Every person, firm, or corporation who owns or occupies any residential dwelling, boardinghouse, multiple dwelling, restaurant, place of business, or other establishment where garbage is accumulated, who does not otherwise dispose of the garbage in a sanitary manner, shall provide one or more fly-tight containers sufficient to receive all garbage and other refuse which may accumulate between the time for collection hereinafter set forth. Each can shall have an enclosed pail with handles, have a tightfitting cover, and be so anchored or fastened that it cannot easily be accidentally tipped over.
- (b) The owners, operators, or managers of any multiple dwelling containing more than four rental dwelling units or of any firm or corporation where garbage or refuse accumulates in excess of four 30-gallon to 32-gallon containers per week may elect to have vat service weekly from a licensed hauler. The vats shall be of a minimum capacity of one cubic yard and of any approved sanitary type with the proper attachments for lifting on to licensed trucks.
- (c) Each person, firm, or corporation, unless supplied by the city or the hauler, shall provide one or more containers sufficient to retain all targeted recyclables, which may accumulate between the times for collection hereinafter set forth. The container shall be constructed so the contents can be lifted by suitable handles rectangular in shape and have a capacity of not to exceed 14 gallons for residential dwelling units.
- (d) All garbage and refuse containers shall be placed as follows in residential areas:
 - (1) Except for collection day, all containers shall be located behind the front setback line of the dwelling or in the garage or screened from view from the street and at least ten feet from any abutting dwelling.
 - (2) On collection day, except where vat or in-yard service is required, containers shall be placed at the curb, in a location easily accessible for motor vehicle pick-up. Containers must be placed for pick-up before 7:00 a.m. on the day of collection to ensure service. The hauler shall complete pick-ups by 7:00 p.m., unless emergency permission is granted by the city administrator, and all containers must be removed no later than 8:00 p.m. on collection day.

(Code 1997, § 800.02; Code 2007, § 52.08; Ord. No. 97-41, 9-21-1999)

5.12.080 License To Collect Required; Exception

- (a) No person, firm, or corporation, except city employees, shall collect garbage, refuse, recyclables, or waste materials belonging to another in the city without a license from the city.
- (b) No person, firm, or corporation, except city employees, shall scavenge, sort through, or in any way handle the garbage, refuse, recyclables, or waste materials of another person, firm, or corporation without a license from the city or permission from the owner thereof. Garbage, refuse, recyclables, and waste materials shall be considered the property of the generator until picked up by a hauler.

(Code 1997, § 800.02; Code 2007, § 52.09; Ord. No. 97-41, 9-21-1999)

5.12.090 Hauler Equipment Requirement

Hauler licenses shall be granted only upon the condition that the licensee have watertight packer-type vehicles or for recycling, haulers must have appropriate container vehicles in good condition to prevent loss in transit of liquid or solid cargo. All vehicles used by haulers must be kept clean and as free from offensive odors as possible. They shall not be allowed to stand in any street longer than reasonably necessary to collect garbage, refuse, and yard waste materials or recyclables. They shall not be parked any place or in any manner that constitutes a traffic hazard or nuisance.

(Code 1997, § 800.02; Code 2007, § 52.10; Ord. No. 97-41, 9-21-1999)

5.12.100 Types Of Licenses

- (a) There shall be two license categories defined by the type of account served:
 - (1) *Commercial refuse/recycling residential dwelling.* A commercial refuse/recycling license is required for any hauler that serves commercial establishments as defined in LEC 1.08.
 - (2) *Residential refuse/recycling.* A residential refuse/recycling license is required for any hauler that serves residential dwellings as defined in LEC 1.08.
- (b) Residential refuse/recycling and commercial refuse/recycling licensees shall provide refuse pickup and recycling on the same day.
- (c) Every licensed hauler shall offer collection and disposal of yard waste, unless otherwise provided by council action.

(Code 1997, § 800.02; Code 2007, § 52.11; Ord. No. 97-41, 9-21-1999)

5.12.110 Condition Of A License

- (a) It shall be unlawful for a licensed hauler to operate on residential streets in the city on any day, except for regularly scheduled collections, to collect a missed pick-up, a special pick-up or when an observed holiday falls within that week.
- (b) The council, in the interest of maintaining healthful and sanitary conditions in the city, hereby reserves the right to limit the number of licenses issued within the city.
- (c) Each applicant shall file with the city administrator, before a license is issued or renewed, a schedule of proposed rates to be charged during the licensed period for which the application is made.
- (d) Every licensee shall notify customers 30 days in advance of any rate increase and provide written notification of any rate increase to the city administrator 15 days prior to notification of the customer of the increases.
- (e) Residential refuse/recycling license rates shall include a minimum of two levels of regular service, priced on the basis of volume beginning at a volume of 32 gallons or less and in increments of 32 gallons or less. Residential refuse/recycling licenses shall also include a cost for curbside recycling.
- (f) Commercial refuse/recycling license rates shall also include a cost for curbside recycling.
- (g) No hauler shall exceed weight limits established by the city.
- (h) No hauler shall operate in a residential district after 7:00 p.m. or before 7:00 a.m. on any day, and no hauler shall operate in a residential district on Sunday.
- (i) Each vehicle for which a hauler's license is issued shall exhibit the license in a prominent position on the vehicle.
- (j) All residential refuse/recycling and commercial refuse/recycling license holders shall report to the city, on a form provided for the purposes, the recycling yard waste abated from the landfills and other recycling information requested. The reports shall be submitted quarterly and submitted to the city on or by January 10, April 10, July 10, and October 10. The penalty for not submitting the reports shall be \$500.00 for the first offense, \$500.00 plus an appearance before the city council for the second offense, and automatic license revocation for the third offense.
- (k) All licensee employees shall report to the licensees any violations of LEC 5.12.010 et seq. they observe in the performance of their work and the licensees shall report all the violations to the city's code enforcement officer.

(Code 1997, § 800.02; Code 2007, § 52.12; Ord. No. 97-41, 9-21-1999)

5.12.120 Licensing Procedure

- (a) Any person desiring a hauler license shall make application for the same to the

city administrator upon a form prescribed by the council. The application shall, at a minimum, set forth the name and address of the applicant, a list of the equipment which the hauler proposes to use in the collection, the portion of the city in which collections are to be made, and the other information as the city may require. The application shall be submitted to the city administrator for investigation and report.

- (b)
 - (1) The city administrator shall review the application and make a recommendation for approval/denial to the city council.
 - (2) The city council, after any additional investigation it deems necessary, shall approve or deny the application.
- (c) To control the number of heavy trucks that use city streets, to reduce the wear of those streets, to reduce air and noise pollution, and to reduce the traffic hazard in residential neighborhoods where children play, the city shall not issue more than ten licenses for residential refuse/recycling, as defined in LEC 1.08.

(Code 1997, § 800.02; Code 2007, § 52.13; Ord. No. 97-41, 9-21-1999)

5.12.130 Insurance Certificate

Before a license shall be issued, the applicant shall file with the city administrator an executed indemnification in the form provided by the city administrator and proof of insurance as filed with the county, in an amount and in the form as shall be established from time to time by resolution of the city council.

(Code 1997, § 800.02; Code 2007, § 52.14; Ord. No. 97-41, 9-21-1999)

5.12.140 Cash Deposit Or Surety Bond Required Of Licensee

The applicant shall deposit with the city administrator the sum of \$3,000.00 or, in the alternative, shall file with the city administrator a surety bond in an amount of \$3,000.00. The condition of the bond shall bind the holder of the license to comply with all applicable provisions of this chapter and the other items as maybe imposed by the council. The council, based on a review and favorable recommendation of the city attorney, shall approve the bond. Where a cash deposit is used, all or any part thereof may be subject to forfeiture in case of the violation of any provisions of LEC 5.12.010 et seq.

(Code 1997, § 800.02; Code 2007, § 52.15; Ord. No. 97-41, 9-21-1999)

5.12.150 License Fee; Expiration; Transferability

- (a) The fees for a license required by LEC 5.12.010 et seq. shall be established from time to time by resolution of the city council.

- (b) Every license shall expire on December 31 next after its issuance.
- (c) The fee for part of a year shall be prorated.
- (d) No license shall be issued for more than one year.
- (e) The license shall not be transferable from one person to another.

(Code 1997, § 800.02; Code 2007, § 52.16; Ord. No. 97-41, 9-21-1999)

5.12.160 License Revocation Or Suspension

- (a)
 - (1) Every license required by LEC 5.12.010 et seq. may be revoked, suspended, or a civil fine of not more than \$2,500.00 imposed by the council for a violation of any law or regulation pertaining to solid waste adopted by the city, county, or state.
 - (2) If the county revokes or suspends any hauler's license, the city license, in case of revocation, shall be automatically terminated without any further action of the city, or, in case of suspension, the city license shall also be automatically suspended for the same length of time, without further actions of the city.
- (b) No suspension or revocation takes effect until the licensee has been afforded an opportunity for a hearing under M.S.A. §§ 14.57 to 14.69 of the Administrative Procedure Act, as they may be amended from time to time.

(Code 1997, § 800.02; Code 2007, § 52.17; Ord. No. 97-41, 9-21-1999)

5.12.170 Payment Of Charges; Notice Of Discontinuance Of Service

The expense of collection shall be paid to the licensed hauler at intervals as may be determined by the licensed hauler. The licensed hauler shall notify the code enforcement officer and the city administrator of the discontinuance of service to any premises with a five-day notice prior to service being discontinued, if possible, but no later than the date service is actually discontinued.

(Code 1997, § 800.02; Code 2007, § 52.18; Ord. No. 97-41, 9-21-1999)

5.12.180 Frequency Of Collections

Each licensed hauler shall make collections of garbage and refuse, and recyclables at least weekly, or more often as sanitary conditions warrant as determined by the code enforcement officer. Single-sort residential recycling shall be collected at least bi-weekly.

(Code 1997, § 800.02; Code 2007, § 52.19; Ord. No. 97-41, 9-21-1999; Ord. No. 97-128, 5-18-2004)

5.12.190 Burying And Burning

No person shall bury any garbage within the city. No person shall burn garbage except in an incinerator located within a residence or other building, and that conforms to the requirements of the state.

(Code 1997, § 800.02; Code 2007, § 52.20; Ord. No. 97-41, 9-21-1999)

5.12.200 Rules And Regulations

The city council, by resolution, shall have the authority to make rules and regulations concerning type and location of waste containers, the collection of yard and garden wastes and recyclables, license applications and the information required, and any other matter concerning solid waste management which is not in conflict with this chapter.

(Code 1997, § 800.02; Code 2007, § 52.21; Ord. No. 97-41, 9-21-1999)

5.12-II COMPOSTING

[5.12.210 Composting Regulations](#)

5.12.210 Composting Regulations

All yard waste collected or concentrated by any individual shall be disposed of at a licensed compost site or on-site providing the following compliance with the following regulations are complied with:

- (a) *Location of compost.* The compost shall be located in the rear yard of the property, be at least five feet from lot lines, outside any drainage easement, and be placed no closer than 50 feet to any adjacent habitable building, other than the resident's own home.
- (b) *Prohibited ingredients.* None of the following materials shall be placed on the property for composting: meat, bones, fats, oils, dairy products, whole branches or logs, plastics, synthetic fibers, human or pet wastes, or diseased plants.
- (c) *Proper maintenance required.*
 - (1) Compost shall be properly managed to minimize odor generation and promote effective decomposition of the material.
 - (2) The operation of composting in a manner that results in objectionable odors and/or the placing of prohibited materials for composting to create a health hazard is considered a public nuisance.

(Code 1997, § 800.03; Code 2007, § 52.40; Ord. No. 97-41, 9-21-1999)

5.12-III SOLID WASTE ABATEMENT/RECYCLING

[5.12.220 Purpose](#)

[5.12.230 Curbside Recycling](#)

[5.12.240 Collection](#)

[5.12.250 Participation](#)

[5.12.260 Materials To Be Picked Up At Curbside](#)

[5.12.270 Ownership](#)

[5.12.280 Scavenging](#)

[5.12.290 Land Disposal Of Yard Waste](#)

[5.12.300 Ownership Of Compost](#)

[5.12.310 City's Commitment To Solid Waste Abatement](#)

5.12.220 Purpose

- (a) The purpose of the policies set forth within LEC 5.12.220 et seq., is to reduce the amount of solid waste sent to landfills through source separation of recyclable items.
- (b) This subchapter is intended to serve several purposes:
 - (1) To raise the public's awareness of recycling and to make recycling services available to city residents;
 - (2) To encourage recycling activity within the city; and
 - (3) To be prepared for a seemingly inevitable mandatory source separation ordinance which may occur at the discretion of the city, the county, and/or the state.

(Code 1997, § 805.01; Code 2007, § 52.55)

5.12.230 Curbside Recycling

- (a) The city has initiated a program in which every resident within the city is afforded the opportunity to voluntarily separate recyclable solid waste.
- (b) The city will provide curbside pickup of recyclables based on the following conditions.

(Code 1997, § 805.03; Code 2007, § 52.57)

5.12.240 Collection

All collection of recyclables shall be at curbside on the boulevard, in a clearly identifiable manner to be designated by the city staff.

(Code 1997, § 805.04; Code 2007, § 52.58)

5.12.250 Participation

The initial curbside collection of recyclables shall be voluntary. This program may be supported by mandatory source separation at the discretion of the city, the county, or the state, pending further analysis.

(Code 1997, § 805.05; Code 2007, § 52.59)

5.12.260 Materials To Be Picked Up At Curbside

- (a) Items to be collected and instructions for preparation shall be uniform throughout the city.
- (b) Material to be collected shall include, but not be limited to, the following:
 - (1) Newspapers;
 - (2) Corrugated cardboard;
 - (3) Glass (clear, green, and brown);
 - (4) Aluminum and bi-metal cans;
 - (5) Batteries;
 - (6) Special items; and
 - (7) Tires will be picked up with recyclables at a cost determined by the city and the contracted recycler.

(Code 1997, § 805.06; Code 2007, § 52.60)

5.12.270 Ownership

- (a) Ownership of recyclable materials set out for the purpose of participating in curbside recycling programs shall remain that of the person or household from which the materials originated until collected by the authorized collector.
- (b) Upon removal by the city or its designated agents or contractors from a designated collection point, ownership of properly prepared and stored recyclable materials intended for a city authorized collection program shall be vested in the authorized collector.
- (c) Materials not prepared, cleaned, or stored according to city specifications shall remain the responsibility and property of the individuals or household from which the materials originated.
- (d) Nothing in LEC 5.12.220 et seq. shall abridge the right of any individual or household to give or sell their recyclable materials to any recyclable material program.

(Code 1997, § 805.07; Code 2007, § 52.61)

5.12.280 Scavenging

- (a) Unauthorized collection or scavenging may reduce the volumes of material collected as part of a designated program and thereby threaten the economic viability of the authorized program. Scavenging may also cause confusion among participating residents and thereby disrupt the publicity and educational processes of an authorized program.
- (b) To ensure that a designated recycling program will be implemented in an orderly fashion and to avoid adverse effects on the public health, welfare, safety, and environment, it shall be unlawful for any person who is not authorized by the city to take or collect recyclable material set out for authorized collection programs within the city.

(Code 1997, § 805.08; Code 2007, § 52.62)

5.12.290 Land Disposal Of Yard Waste

- (a) The Waste Management Act, M.S.A. ch. 115A, prohibits the deposit of yard waste:
 - (1) In mixed municipal solid waste;
 - (2) In a disposal facility; and/or
 - (3) In a resource recovery facility except for the purposes of composting or co-composting.
- (b) In compliance with this state law, the city shall prohibit the deposit of yard waste:
 - (1) In mixed municipal solid waste;
 - (2) In a disposal facility; and/or
 - (3) In a resource recovery facility except for the purposes of composting or co-composting.
- (c) The city will provide to its residents a place at which uncontaminated leaves and grass clippings may be deposited. This site, to be known as the Lake Elmo Compost Site, will be open to the residents of the city on a regularly scheduled basis.
- (d) Residents who use the compost site for the deposit of uncontaminated leaves and grass clippings shall remove from the site any bags or containers in which yard waste was brought to the site.

(Code 1997, § 805.09; Code 2007, § 52.63)

5.12.300 Ownership Of Compost

- (a) The uncontaminated leaves and grass clippings deposited at the city compost site shall remain the property of the city. However, it is the intent of the city to make available to the general residential public the finished compost, on a first come, first served basis.
- (b) No motorized loading equipment, other than that used by the city, is allowed on the premises at any time for the purpose of obtaining finished compost without the approval of the city.

(Code 1997, § 805.10; Code 2007, § 52.64)

5.12.310 City's Commitment To Solid Waste Abatement

The city is firmly dedicated to the education of the public on the importance of natural resources protection and preservation, and the many environmentally and socially responsible ways in which the resources should be used and enjoyed.

(Code 1997, § 805.11; Code 2007, § 52.65)

5.12-IV OPEN FIRES PROHIBITED

[5.12.320 Adoption By Reference](#)

[5.12.330 Permits](#)

5.12.320 Adoption By Reference

The ambient air quality standards, air pollution control regulations of the Minnesota Pollution Control Agency (MPCA), and the Open Burning Restrictions and Permitting Regulations of the state department of natural resources (DNR) are adopted by reference, and have the same force and effect as if they were reproduced in their entirety.

(Code 1997, § 810.01; Code 2007, § 52.75; Ord. No. 97-80, 5-5-2001)

5.12.330 Permits

Open fires are prohibited, provided that a recreational fire is allowed upon issuance of a permit by the city fire chief or the fire chief's designee.

(Code 1997, § 810.02; Code 2007, § 52.76; Ord. No. 97-80, 5-5-2001; Ord. No. 97-116, 4-1-2003)

CHAPTER 5.16 STORMWATER MANAGEMENT UTILITY

[5.16.010 General Operation](#)

[5.16.020 Surface Water Management Utility Equations](#)

[5.16.030 Surface Water Management Fee](#)
[5.16.040 Surface Water Management Fee Adjustment Credits](#)
[5.16.050 Exemptions](#)
[5.16.060 Statement Of Surface Water Management Charges](#)
[5.16.070 Appeal Of Fee](#)
[5.16.080 Delinquent Payments](#)
[5.16.090 Annual Certification Of Delinquent Accounts](#)
[5.16.100 Stormwater Area Districts](#)

5.16.010 General Operation

- (a) The municipal surface water system shall be operated as a public utility (hereinafter called the surface water management utility), pursuant to M.S.A. § 444.075, as it may be amended from time to time, from which revenues will be derived subject to the provisions of this chapter and state statutes.
- (b) In general, revenue from the surface water utility shall be used for preparation of a surface water management plan, maintenance of existing ditches, culverts, pond, and storm sewers, capital improvement in developed areas, equipment, planning, inventories, and water quality improvements, including weed control.

(Code 2007, § 53.01; Ord. No. 97-122, 7-15-2003; Ord. No. 08-041, 4-5-2011)

5.16.020 Surface Water Management Utility Equations

The utility charge (UC) shall be reviewed and determined annually by the city council. The utility equation for various land uses to determine the surface water management fees are assigned as follows:

<i>Property Class Code</i>	<i>Current Land Use</i>	<i>Utility Factor (Multiplied by the Utility Charge (UC))</i>
151--208, 402	Residential	1.0* UC per Lot
101--111, 401	Agricultural	3.0* UC ÷ 40* Total Acres
210	Manufactured Home Park	0.52* UC per Acre
230, 231, 233-241	Commercial/Industrial	3.08* UC per Acre
250--252	Vacant Land	0.15* UC per Acre
232	Golf/Park	0.35* UC per Acre
900--999	School/Church	1.12* UC per Acre
	Conditional Use	

--	Permit	Site Specific
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(Code 2007, § 53.02; Ord. No. 97-122, 7-15-2003; Ord. No. 08-041, 4-5-2011)

5.16.030 Surface Water Management Fee

Surface water management fees shall be established for a period of time as set by city council resolution.

(Code 2007, § 53.03; Ord. No. 97-122, 7-15-2003; Ord. No. 08-041, 4-5-2011)

5.16.040 Surface Water Management Fee Adjustment Credits

- (a) The city council, upon report and recommendation of the city administrator, finance director and public works director, shall apply a credit to a property owner's surface water management fee provided the property owner has contributed to the management of surface water through intentional acts of retaining or re-using surface water to have a minimal impact on the municipal surface water management system or surface waters of the state. The council may apply a 25 percent to 75 percent credit based on the property owner's employment of surface water retention practices in accordance with LEC 105.04.770. These practices include the installation of:
 - (1) Rain barrel;
 - (2) Rain garden;
 - (3) Retention pond;
 - (4) Swales, ditches or manmade watercourses;
 - (5) Riparian area plantings;
 - (6) Other practices that may be deemed as intentional detention of surface water run-off.
- (b) The city council may grant a one-time or ongoing credit based on the effectiveness of the surface water retention as it relates to the management of the municipal surface water management system as a whole. For practices, such as rain gardens constructed in the adjacent right-of-way, the city council may grant an ongoing credit in exchange for the adjacent property owner's participation in the maintenance of the surface water retention device. This credit will not exceed 50 percent of the annual surface water management fee.
- (c) The city council, upon the report and recommendation of the city administrator and finance director, may apply a financial hardship credit of no greater than 75 percent based on a review of the property owner's ability to pay.

(Code 2007, § 53.04; Ord. No. 97-122, 7-15-2003; Ord. No. 08-041, 4-5-2011; Ord. No. 12-057, 5-15-2012)

5.16.050 Exemptions

The following land uses are exempt from the surface water management fee:

- (a) Public rights-of-way;
- (b) Parks;
- (c) Lakes; and
- (d) Railroad property.

(Code 2007, § 53.05; Ord. No. 97-122, 7-15-2003; Ord. No. 08-041, 4-5-2011)

5.16.060 Statement Of Surface Water Management Charges

Statements for the preceding yearly surface water management service shall be mailed to each customer on or before March 5.

(Code 2007, § 53.06; Ord. No. 97-122, 7-15-2003; Ord. No. 08-041, 4-5-2011)

5.16.070 Appeal Of Fee

- (a) If a property owner or person responsible for paying the surface water management fee believes that a particular assigned fee is incorrect, the person may request that the fee be recomputed.
- (b) Appeals will be heard once a year, in a manner determined by the council in accordance with the schedule established for credit applications, in established city policy.

(Code 2007, § 53.07; Ord. No. 97-122, 7-15-2003; Ord. No. 08-041, 4-5-2011)

5.16.080 Delinquent Payments

A penalty equal to \$5.00 or ten percent of the amount due, whichever is greater, shall be added to accounts not paid in full on or before May 1.

(Code 2007, § 53.08; Ord. No. 97-122, 7-15-2003; Ord. No. 08-041, 4-5-2011)

5.16.090 Annual Certification Of Delinquent Accounts

- (a) Each year the city staff shall prepare a list of delinquent surface water management service charge accounts, including accrued penalties thereon, in the form of an assessment roll.

- (b) On or before October 1 of each year, the city council shall review the delinquent surface water management service charge assessment roll and adopt an appropriate resolution directing that the assessment roll be certified to the county auditor as a lien against the premises served and directing that the county auditor collect the assessment as part of the ensuing year's tax levy.

(Code 2007, § 53.09; Ord. No. 97-122, 7-15-2003; Ord. No. 08-041, 4-5-2011)

5.16.100 Stormwater Area Districts

- (a) *Establishment of stormwater area districts.* The city may create stormwater area districts throughout the city, in which districts the city will require payment for the use of the city's storm drainage facilities, either through the connection and discharge to the city's storm drainage facilities or the receipt of volume control credits. Payments are required to assist in paying the costs of the establishment, construction, reconstruction, repair, replacement, enlargement, and improvement of the city's stormwater and surface water drainage system. It is determined by the city council that charges in accordance with the rates provided in the city's fee schedule shall be paid for every lot, parcel, or piece of land that connects to, or receives volume control credits from, the use of the city's stormwater and surface water drainage system in any stormwater area district which the city may establish in the future.
- (b) *Benefit.* It has been determined by the city council that the city's stormwater and surface water drainage systems benefit all properties located within the city's stormwater area districts by providing for the conveyance, storage, treatment, and drainage of stormwater, which protects the residents and property in the city. Charges against all real property in the city's stormwater area districts will be calculated by the city to reasonably represent the benefit the city's stormwater and surface water drainage system provides to the property in the particular stormwater area district. The city council determines that such benefit is in addition to any previous assessment or charge for construction of any stormwater interceptor, trunk, or sub-trunk, and does not include any other fee or charge for service or availability, any amount paid for any permit fee, charges paid for inspection of connection pursuant to any other ordinance of the city or any other governmental agency or entity.
- (c) *Connection and volume control use charges.* The applicable stormwater and surface water system connection charge or volume control use charge shall be imposed by the city upon those parcels or land located within the boundaries of any applicable stormwater area district. No city approvals, including, but not limited to, building permits or other development permits or approvals, shall be issued, or any permits or approvals granted, within the established stormwater area district, except upon payment of such stormwater and surface water system connection or volume control use charges to the city. At the time a city approval,

such as a building permit or development permit or approval, is required, the stormwater and surface water system connection or volume control use charge shall be computed by the city. Payment of the connection or volume control use charge shall be required at the time the permit is issued or approval granted.

- (d) *Establishment of the Downtown Regional Stormwater District and connection charges.* The Downtown Regional Stormwater District is hereby established, and shall encompass that area of land and those lots, parcels, and pieces of property within the city, that are more particularly described and depicted on the city's Downtown Regional Stormwater District Map which is on file with the city clerk. This map and all notations, references, and data thereon are hereby incorporated by reference into this section and shall have the same force and effect as if fully set forth and described within this section. The amount of the Downtown Regional Stormwater District connection charge is set forth in the city's fee schedule.
- (e) *Establishment of the Regional Infiltration Basin Stormwater District and volume control use charge.* The Regional Infiltration Basin Stormwater District is hereby established, and shall encompass that area of land and those lots, parcels, and pieces of property within the city, that are within the Downs Lake Subwatershed as defined by the Valley Branch Watershed District. The purpose of this charge is to allow properties within the Regional Infiltration Basin Stormwater District to pay a use charge in order to receive a credit toward meeting the volume control requirements for the property's Valley Branch Watershed District permit. The property is not allowed to connect to and discharge stormwater to the city's regional infiltration basin. The amount of the regional infiltration basin volume control use charge is set forth in the city's fee schedule. If or when the volume control capacity is depleted at the regional infiltration basin, stormwater management must be provided elsewhere by the property owner.

(Ord. No. 08-225, § 1(53.10), 7-16-2019)

CHAPTER 5.20 ENVIRONMENTAL COMMISSION

5.20.010 Establishment

5.20.020 Purpose

5.20.030 Composition: Appointment And Terms Of Members

5.20.040 Residency Requirement

5.20.050 Organization

5.20.060 Commission Meetings And Records

5.20.070 Commissioner To Attend City Council Meetings

5.20.080 Duties

5.20.090 Commission Expenditures

5.20.100 Removal Of Commission Members For Nonattendance

5.20.010 Establishment

An environmental commission for the city is hereby established.

(Code 2007, § 54.01; Ord. No. 97-97, 1-15-2002)

5.20.020 Purpose

The general purpose of the commission is to assist the city council in establishing plans, policies, and procedures in matters affecting the environment. This will include, but not be limited to, the orderly disposal of solid waste, recycling, composting, stormwater runoff, water quality improvements, wetland conservation and management, air quality, groundwater (drinking), tree preservation, and quality of the environment and natural resources. Additionally, the commission may assist in educational tasks and other environmental interests and concerns that council deems appropriate. All conclusions reached by the commission shall serve as recommendations and powers of execution shall be vested in the council.

(Code 2007, § 54.02; Code 2007, § 54.; Ord. No. 97-97, 1-15-2002)

5.20.030 Composition; Appointment And Terms Of Members

- (a) The environmental commission shall consist of five regular members, appointed by the council for three-year terms. The initial term for appointments to the commission shall be staggered so that only one new appointment or re-appointment needs to be made in any one year. Commission members must be voting age residents of the city. Vacancies during a term due to resignation or removal from the commission shall be filled by a council appointment for the remainder of the unexpired term. Resignation of environmental management commission members shall be submitted in writing to the council. A majority of the serving members shall constitute a quorum.
- (b) At their discretion, the council may appoint up to two ex officio members and up to two student representatives to serve on the commission. The individuals shall serve in an advisory role without voting privileges and do not need to meet the age or residency requirements for a commissioner.

(Code 2007, § 54.03; Ord. No. 97-97, 1-15-2002)

5.20.040 Residency Requirement

No person appointed to represent the residents shall continue to serve on the commission once that member has taken residence outside of the corporate limits of the city. A resignation shall be submitted to the council in this instance.

(Code 2007, § 54.04; Ord. No. 97-97, 1-15-2002)

5.20.050 Organization

Officers of the environmental commission shall be the chair and vice-chair. These officers shall be elected annually by the members of the commission at the first meeting in January. The environmental management commission may elect the other officers as may be necessary and may give the chair the authority to appoint and change committees if the appointments might become necessary. The environmental management commission shall provide for the date, time, and location for meeting.

(Code 2007, § 54.05; Ord. No. 97-97, 1-15-2002)

5.20.060 Commission Meetings And Records

The environmental commission shall hold regular meetings as established by the commission and approved by the council. These meetings shall be open to the public. The environmental management commission shall submit to the council written minutes of its meetings and actions.

(Code 2007, § 54.06; Ord. No. 97-97, 1-15-2002)

5.20.070 Commissioner To Attend City Council Meetings

The environmental commission shall have one or more of its members present at all pertinent council meetings.

(Code 2007, § 54.07; Ord. No. 97-97, 1-15-2002)

5.20.080 Duties

It shall be the duty of the environmental commission:

- (a) To assist the council in developing and reviewing policies, plans, reports, regulations, and other matters affecting solid waste disposal, recycling, composting, stormwater runoff, water quality improvements, or other areas affecting the environment that may be assigned by the council;
- (b) To advise the council and residents on solid waste disposal, recycling, composting, stormwater runoff, water quality improvements, or other issues affecting the environment;
- (c) To assist in the collection of background data to determine goals, policies, and programs that will maintain or improve the environment in the city;
- (d) To assist in preparing public education materials and methods on solid waste disposal, recycling, composting, stormwater runoff, water quality improvements, and other issues affecting the environment;
- (e) To recommend additional methods, policies, or procedures that will reduce the solid waste stream, expand recycling, and/or improve the orderly disposal of solid waste;

- (f) To hold public meetings; and
- (g) To cooperate with other agencies, commissions, and volunteer organizations to achieve common goals related to solid waste and the environment.

(Code 2007, § 54.08; Ord. No. 97-97, 1-15-2002)

5.20.090 Commission Expenditures

The expenditures of the environmental commission shall be within amounts appropriated for the purpose by the council; provided, however, that all expenditures are duly authorized through normal administrative purchasing policies.

(Code 2007, § 54.09; Ord. No. 97-97, 1-15-2002)

5.20.100 Removal Of Commission Members For Nonattendance

Given that the council expects diligence in attendance by the members of the environmental management commission at commission meetings, excessive absences will be considered as grounds for removal from the commission. Excessive absences may be considered as absence from more than one-third of the meetings, or absence from three or more consecutive meetings.

(Code 2007, § 54.10; Ord. No. 97-97, 1-15-2002)

TITLE 7 TRAFFIC AND VEHICLES

CHAPTER 7.04 SNOWMOBILES AND ALL-TERRAIN VEHICLES

CHAPTER 7.08 TRAFFIC REGULATIONS

CHAPTER 7.12 PARKING REGULATIONS

CHAPTER 7.16 PARKING SCHEDULES

CHAPTER 7.20 TRAFFIC SCHEDULES

CHAPTER 7.04 SNOWMOBILES AND ALL-TERRAIN VEHICLES

7.04.010 Incorporation By Reference

7.04.020 Regulations

7.04.010 Incorporation By Reference

Provisions of M.S.A. §§ 84.81 to 84.915, as amended from time to time, shall be applicable to the city. In those cases where there is a conflict between the provisions of M.S.A. §§ 84.81 to 84.915 and this chapter, the more restrictive regulation shall apply.

(Code 2007, § 70.01; Ord. No. 97-164, 12-20-2006)

7.04.020 Regulations

- (a) No person shall operate a snowmobile or all-terrain vehicle on a public sidewalk or within the unimproved portion of a city street.
- (b) No person shall operate a snowmobile or all-terrain vehicle on city-owned property.
- (c) No person shall operate a snowmobile or all-terrain vehicle between the hours of 11:00 p.m. and 7:00 a.m., provided that all-terrain vehicles may be used for snow plowing purposes during prohibited hours.
- (d) No person shall operate a snowmobile or all-terrain vehicle within 50 feet of a residential dwelling unless such operation occurs on property owned or occupied by the operator of the snowmobile or all-terrain vehicle and such operation is for the purpose of accessing a public right-of-way from private property.
- (e) No person shall operate a snowmobile or all-terrain vehicle within 100 feet of any fisherman, pedestrian, skating rink, or sliding area.

(Code 2007, § 70.02; Ord. No. 97-164, 12-20-2006)

CHAPTER 7.08 TRAFFIC REGULATIONS

7.08-I HIGHWAYS AND HIGHWAY VEHICLES

7.08-I HIGHWAYS AND HIGHWAY VEHICLES

[7.08.010 Adoption Of Highway Traffic Regulation Acts](#)
[7.08.020 Exhibition Driving Prohibited](#)

7.08.010 Adoption Of Highway Traffic Regulation Acts

The regulatory provisions and definitions of M.S.A. ch. 169, Traffic Regulations, and of M.S.A. ch. 168B, Abandoned Motor Vehicles and Towing, are, by this section, adopted as the traffic code and parking regulations for the use of highways, streets, alleys and other portions of the city and are, by this section, incorporated in and made a part of this Code. The parking provisions shall apply to the parking of trailers as well as vehicles.

(Code 1997, § 1000.01; Code 2007, § 71.01; Ord. No. 97-179, 9-19-2006)

7.08.020 Exhibition Driving Prohibited

- (a) No person shall turn, accelerate, decelerate, or otherwise operate a motor vehicle within the city in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race.
- (b) Unreasonable squalling or screeching sounds emitted by tires, or the unreasonable throwing of sand or gravel by the tires, is prima facie evidence of a violation of this section.

(Code 1997, § 1000.02; Code 2007, § 71.02)

CHAPTER 7.12 PARKING REGULATIONS

7.12-I GENERAL PROVISIONS

7.12-I GENERAL PROVISIONS

[7.12.010 Generally](#)

[7.12.020 Temporary Parking Permit](#)

[7.12.030 Winter Parking](#)

7.12.010 Generally

(a) *Parking and fire lanes.*

- (1) a. The council, upon report and recommendation of the administrator and fire chief, may order the establishment of fire lanes on public or private property in order that the travel of fire equipment may not be interfered with and that access to fire hydrants or buildings may not be obstructed. The fire lanes shall be designated by appropriate signs indicating "no parking - fire lane" or words of similar import.

- b. The city shall erect and maintain the signs on public property. The owner of private property shall erect and maintain the signs on owner's property at owner's expense within 30 days after notification of the establishment of a fire lane.

(2) After appropriate signs have been erected, no person shall park a vehicle or otherwise occupy or obstruct a fire lane.

- (b) *Parking term.* No person shall park or permit any vehicle to stand upon any highway, street, alley, or any other public property in the city for more than 48 consecutive hours.
- (c) *Trailers.* The provisions of this section shall apply to the parking of trailers as well as vehicles.

(Code 1997, § 1005.01; Code 2007, § 72.01; Ord. No. 97-179, 9-19-2006)

7.12.020 Temporary Parking Permit

- (a) An owner who resides adjacent to a posted "No Parking" zone may obtain up to two temporary parking permits per calendar year for a special non-business or social event (including, but not limited to, weddings, birthday parties, family reunions, bar mitzvahs, confirmations, first communions, fraternal gatherings, holiday gatherings, and the like) by making application to the city administrator at least three working days before the date of special event.
- (b) A temporary parking permit shall allow for parking of residential passenger vehicles within a "No Parking" zone for a period not to exceed 24 consecutive hours.
- (c) The city administrator shall notify the county sheriff before issuing a temporary parking permit and shall arrange to have the posted "No Parking" signs covered during the period described in the permit.

(Code 1997, § 1005.05; Code 2007, § 72.02)

7.12.030 Winter Parking

- (a) It shall be unlawful for any person to stop, stand or park any vehicle or trailer or permit the same to stand or park on any street or alley within the city between the hours of 2:00 a.m. and 7:00 a.m. from November 1 until March 31 of the following year.
- (b) Parking is also restricted at any time that snow accumulation equals or exceeds two inches or more until the street is cleared of snow.

(c) The winter parking ordinance does not apply to private streets (marked with a blue street sign), only to public roadways.

(d) Violation of this section shall constitute a petty misdemeanor and shall be punishable by payment of a fine as set forth in the city's fee schedule.

(Ord. No. 08-221, § 1, 2(72.03), 2-5-2019)

CHAPTER 7.16 PARKING SCHEDULES

7.16.010 Schedule I, Parking Prohibited

7.16.020 Schedule II, Parking Of Trailers

7.16.010 Schedule I, Parking Prohibited

No vehicle shall be parked in the following "No Parking" zones, unless a temporary parking permit has been issued by the city administrator, as provided in LEC 7.12.020.

<i>Street</i>	<i>Location</i>	<i>Sides</i>
--	Two signs added 45 feet apart at the asphalt trail into Carriage Station Park	--
Eagle Point Boulevard	From Inwood Avenue to Hudson Boulevard	Both
15 Street N.	From Ivy Avenue N. to the east end of the street	Both
50th Street	From DeMontreville Trail N. to Hill Trail N. in Lanes DeMontreville Country Club	Both
50th Street	From State Highway 5 to CSAH 17 (Lake Elmo Avenue)	Both
53 Street N.	DeMontreville Highlands, Fifth Addition	Both
Highlands Trail North	From DeMontreville Trail to a distance 100 yards from the intersection with DeMontreville Trail North on both segments of Highlands Trail N. in DeMontreville Highlands	Both

Hill Trail N.	Lanes DeMontreville Country Club	B o t h
Jamaca Avenue North	475 feet south of its intersection with Lake Jane Trail	B o t h
Jane Road North	Beginning at the south line of PID 10-029-21-24-0003 extending 33 feet northerly, thereof	W e s t
Klondike Avenue N.	The south 100 feet to the dead end	B o t h
Lake Jane Trail N.	From 250 feet west of Jamaca Avenue N. to Jane Road N.	B o t h
Laverne Avenue N.	From Upper 33rd Street to 36th Street and the east side only from 36th Street N. to State Highway 5	B o t h
Layton Avenue N.	From 36th Street N. to State Highway 5	W e s t
32 Street N.	From Lampert Avenue N. to Klondike Avenue N.	N o r t h

(Code 1997, § 1005.04; Code 2007, title 7, ch. 73, sched. I; Ord. No. 97-82; Ord. No. 9785; Ord. No. 97-119, 6-17-2003; Ord. No. 97-181, 10-3-2006; Ord. No. 08-052, 8-9-2011)

7.16.020 Schedule II, Parking Of Trailers

- (a) No trailer shall be parked in the following "No Trailer Parking" zones unless a temporary parking permit has been issued by the city administrator, as provided in LEC 7.12.020.

<i>Street</i>	<i>Location</i>
Lake DeMontreville Public Access	
53 Street	From Demontreville Trail to the west of the street
DeMontreville Trail	From 50th Street to DeMontreville Circle

Highlands Trail	From Hilltop Avenue to DeMontreville Trail; and from DeMontreville Trail to Highland Trail Court
Hytrail	From Highlands Trail to 59th Street
50th Street	From Hilltop Avenue to the east end of the street
Lake Jane Public Access	
Lake Jane Trail	From Irvin Court to Tapestry Drive
Jamaca Avenue	From Lake Jane Trail to 42nd Street
Jane Road	From Lake Jane Trail to Jane Court

- (b) Any person who violates the provisions of this schedule shall, upon conviction, be subject to a fine of not less than \$150.00 nor more than \$300.00, plus the cost of prosecution.

(Code 2007, title 7, ch. 73, sched. II; Ord. No. 97-179, 9-19-2006)

CHAPTER 7.20 TRAFFIC SCHEDULES

7.20.010 Schedule I, Stop Signs

7.20.010 Schedule I, Stop Signs

<i>Stop Sign</i>	<i>Intersection With</i>	<i>Ord. No.</i>	<i>Date</i>
Westbound Highlands Trail	Hilltop Avenue North	97-152	3-15-2005
Southwest corner of 47th Street	Kimbrow Avenue North	08-053	8-9-2011

(Code 2007, title 7, ch. 74, sched. I)

TITLE 9 GENERAL REGULATIONS

CHAPTER 9.04 MINING

CHAPTER 9.08 FORESTS AND TREES

CHAPTER 9.12 ABANDONED PROPERTY

CHAPTER 9.16 STREETS AND SIDEWALKS

CHAPTER 9.20 RIGHT-OF-WAY MANAGEMENT PERMITS

CHAPTER 9.24 ANIMALS

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CHAPTER 9.32 PARKS AND RECREATION

CHAPTER 9.36 TARGETED RESIDENTIAL PICKETING

CHAPTER 9.04 MINING

9.04.010 Purpose

9.04.020 Conditional Use Permit

9.04.030 Termination Of Permit

9.04.040 Application

9.04.050 Operating Conditions

9.04.010 Purpose

- (a) For the health, welfare, safety, and optimum land development, it is necessary to regulate the removal of sand, gravel, rock, soil, and other natural deposits in the city.
- (b) Other purposes include the following:
 - (1) To provide for the economical availability of sand, gravel, rock, soil, and other materials vital to the continued growth of the city;
 - (2) To establish reasonable and uniform limitations, safeguards, and controls in the city, for the future production of sand, gravel, rock, soil, and other natural resources;
 - (3) To control noise, dust, hazards, effect on adjacent property, and other factors related to the active mining and/or excavating operation;
 - (4) To provide for control of the extent of excavation compatible with the surroundings; and for the restoration of the mining area after termination of the removal operation to make the site compatible with the surroundings and the comprehensive plan for development of the city; and
 - (5) To control pollution by erosion or sedimentation.

(Code 1997, § 900.01; Code 2007, § 90.01)

9.04.020 Conditional Use Permit

- (a) *Conditional use permit required.* It shall be unlawful for any person, partnership, company, or corporation to engage in mining within the city or for an owner to permit a person to mine on the owner's property, without first having obtained a conditional use permit for mining from the council.
- (b) *Application and review of conditional use permit.* The applicant shall submit an application together with the required fees to the planning commission. Property owners within 350 feet shall be notified by certified mail ten days prior to the date the planning commission considers the request. The planning commission shall consider the request at its next regularly scheduled meeting, but not earlier than ten days from the date of submission. The petitioner or petitioner's representative shall appear before the planning commission in order to answer questions concerning the proposed mining. The planning commission shall make its recommendation to the council within 60 days after the submission of the application. The council must take action on the application within 60 days of receiving the recommendation of the planning commission. If it grants the mining permit, the council may impose conditions it considers necessary to protect the health, safety, morals, or general welfare of the city and to ensure the use is in harmony with the general purpose of the intent of this section and the comprehensive plan. No application for a mining permit shall be resubmitted within six months from the date of denial.

(Code 1997, § 900.03; Code 2007, § 90.02)

9.04.030 Termination Of Permit

- (a) *Violations.* The council may terminate a mining permit for violation of this chapter or a condition of the permit, or for violation of other applicable laws.
- (b) *Notice to terminate.* To terminate a permit, the council shall give notice of the violation or other cause for the termination along with an order that the condition be remedied. If the condition has not been repaired within two weeks, the council shall hold a hearing to determine whether the permit should be terminated.
- (c) *Cease operation upon termination.* No mining shall take place after the permit is terminated pursuant to this section.

(Code 1997, § 900.04; Code 2007, § 90.03)

9.04.040 Application

- (a) *Filing.* The application for the permit required in LEC 9.04.020 shall be filed with the administrator for presentation to the council. A fee as set forth from time to time by resolution of the council shall accompany each application. Application

for renewal permit must be made 45 days prior to the termination of the previous permit. The application shall be made in the names of the operator of the mine and the owner of the land to be mined.

(b) *Contents.* The application shall contain:

- (1) The name and address of the operator and owner of the land;
- (2) The correct legal description of the property where the mining shall occur;
- (3) Names of neighboring landowners within 350 feet;
- (4) A map of the property where the mining is to occur that clearly indicates the property lines and the limits of the proposed excavation. Topographic data, including contours at vertical intervals of not more than five feet except where the horizontal contour interval is 100 feet or more, a two-foot vertical interval shall be shown on this map. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. 1929 sea level datum shall be used for all topographic mapping where feasible;
- (5) The purpose of the removal, storage, or excavation;
- (6) The estimated time required to complete the removal, storage, or excavation;
- (7) The plan of operation, including soil processing (any operation other than direct mining and removal), nature of the processing and equipment, location of the plant, source of water, disposal of water, and reuse of water;
- (8) The plans for drainage, water and wind erosion control, sedimentation and dust control. These plans shall be in conformity with the recommendations of the county soil and water conservation district office;
- (9) A map or plat of the proposed pit or excavation showing the confines or limits of the excavation together with the proposed finished elevations based on 1929 sea level datum. Where the finished elevations prohibit natural drainage, certified soil borings shall be included through the proposed excavation;
- (10) A comprehensive plan showing that suitable provision will be made for the restoration of the excavated area so that it will not become a health or safety hazard or a nuisance. The plan must include anticipated final elevations, slope, and a plan for the return of sub-soil and topsoil. Where the council deems it necessary, the plan shall include adjoining related areas where excavations have previously been made and remain under the control of the owner of the land on which the excavating is to be done or under the control of the person other than the owner to whom the permit is to be issued; and

(11) The travel routes to and from the site.

(c) *Operation and land rehabilitation.* The applicant shall abide by one of the two following operating and land rehabilitation practices:

(1) Excavations resulting in the accumulation of substantial water areas after rehabilitation must meet the following requirements:

- a. The water depth must not be less than three feet.
- b. All banks shall be sloped to the water line at a slope which shall not be steeper than four feet horizontal to one foot vertical.
- c. All banks shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three inches.
- d. The topsoil as required by subsection (c)(1)c of this section shall be planted with trees, shrubs, legumes or grasses upon the parts of the area where re-vegetation is possible.
- e. Slopes on boundary areas shall not be steeper than four feet horizontal to one foot vertical.

(2) Excavations not resulting in water areas after rehabilitation, but which must be graded or backfilled, shall meet the following requirements:

- a. The grading or backfilling shall be made with non-noxious, non-flammable, non-combustible solids.
- b. The graded or backfilled area shall not collect or permit stagnant water to remain in the graded or backfilled area.
- c. The peaks and depressions of the area shall be reduced to a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall.
- d. The graded or backfilled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three inches.
- e. The topsoil as required by subsection (c)(2)d of this section shall be planted with trees, shrubs, legumes, or grasses upon the parts of the area where re-vegetation is possible.
- f. New slopes on boundary areas shall not be steeper than four feet horizontal to one foot vertical.

(Code 1997, § 900.06; Code 2007, § 90.04)

9.04.050 Operating Conditions

The owner of the premises must meet all of the following conditions:

- (a) *Fence*. The applicant must properly fence any pit or excavation.
- (b) *Slope of excavation*. The applicant must slope the banks, and otherwise properly guard and keep any pit or excavation in a condition not to be dangerous because of sliding or caving banks.
- (c) *Setbacks*. The applicant must refrain from mining below grade closer than 30 feet to the boundary of any zone where the operations are not permitted, or closer than 50 feet to the boundary of an adjoining property line, unless the written consent of the owner in fee of the property is first secured in writing and filed with the administrator. The applicant must refrain from excavating below road grade closer than 50 feet to the right-of-way line and any existing or platted street, road, or highway, except that excavating may be conducted within the limits in order to reduce the elevation of the right-of-way line or existing or platted street, road, or highway in conformity to the existing or proposed street grades. The applicant must refrain from excavating below any maximum depth designated by the council.
- (d) *Inspection fee*. An annual inspection fee shall be paid to the city. The minimum annual inspection fee shall be set forth from time to time by resolution of the council. The annual inspection fee shall be based on the actual reasonable costs which are incurred by the city in providing periodic inspections and administering the provision of the annual permit. The council shall estimate these charges at the time the annual permit is issued and the applicant shall make a cash deposit with the city equal to the estimate at the time the annual permit is issued. Any surplus at the expiration of the annual permit shall be refunded to the applicant or, if the costs exceed the estimate, the applicant shall pay the additional costs.
- (e) *Survey*. The applicant must furnish a survey by a certified registered surveyor showing the boundaries of the property.
- (f) *Bond*. The applicant must post a bond in the amount as set forth from time to time by resolution of the council. The bond must be conditioned to pay the city the cost and expense of repairing any highways, streets, or other public ways and the restoration of other sites within the city made necessary by the special burden resulting from hauling and transporting on the roadways by the applicant in the removal of rock, sand, dirt, gravel, clay, or other material. The bond must be conditioned further to comply with all the requirements of this section and the particular permit (including provisions relating to completion of operations and restoration of the site). Additionally, the bond must save the city free and harmless from any and all suits or claims for damage resulting from the negligent

excavation, removal, or storage of rock, sand, dirt, gravel, clay, or other material within the city boundary.

- (g) *Insurance*. The applicant must carry bodily injury and property damage, public liability insurance in the amount of \$100,000.00 for any one person and \$300,000.00 for any occurrence including blasting insurance, naming the city as an additional insured.
- (h) *Noise*. The applicant must maintain and operate all equipment in a manner as to eliminate objectionable noises and vibrations and comply with state and county noise standards.
- (i) *Hours of operation*. The applicant must conduct operations only between the hours of 7:00 a.m. and 7:00 p.m. However, no trucking or mining shall be allowed on Sundays or holidays.
- (j) *Dust and dirt*. The applicant must construct, maintain, and operate all equipment in a manner as to minimize dust conditions. All operations shall meet the standards of the state pollution control agency.
- (k) *Appearance*. The applicant must maintain buildings and plants in a safe condition in accordance with acceptable industrial practice. Weeds shall be controlled.
- (l) *Removal of structures*. The applicant must, within a period of three months after the termination of a sand and gravel operation, or within three months after abandonment of the operation for a period of six months (or within three months after expiration of a sand and gravel permit), dismantle or remove buildings, structures, and plants incidental to the operations. However, the buildings, structures, and plants need not be dismantled and removed so long as they are legally being used for the production of processing of sand and gravel or for some other purpose permitted in the zone in which they are located.
- (m) *Lighting*. The applicant shall set forth the planned lighting of the area and any other equipment or structures that will be installed or built.

(Code 1997, § 900.07; Code 2007, § 90.05)

CHAPTER 9.08 FORESTS AND TREES

9.08-I FOREST MANAGEMENT

9.08-II TREE DISEASES

9.08-I FOREST MANAGEMENT

9.08.010 Intent

9.08.020 Permit

9.08.030 Application--Commercial Lumbering Or Harvesting

9.08.040 Application--Removal Of Trees From Any Forested Area

9.08.050 Reforestation, Rural Land

9.08.060 Reforestation Of Land, Subdivided

9.08.010 Intent

LEC 9.08.010 et seq., is adopted to:

- (a) Regulate commercial lumbering or harvesting of forest products to provide for future production of lumber and forest products;
- (b) Regulate the alteration of forested areas and spatial patterns to prevent the development of strong wind currents and to maximize the temperature moderation effects of evapotranspiration; and
- (c) Regulate the alteration of forested areas and spatial patterns to maintain the aesthetic appearance and monetary value of the forested land.

(Code 1997, § 905.01; Code 2007, § 91.01)

9.08.020 Permit

- (a) *Permit required.* It shall be unlawful for any person, partnership, company, corporation, or association to engage in commercial lumbering or harvesting of forest products or to remove any trees on any forested area within the city without first obtaining a permit from the council.
- (b) *Application and review.* The applicant shall submit an application together with the required fees to the planning commission. Property owners within 350 feet shall be notified by certified mail ten days prior to the date the planning commission considers the request. The planning commission shall consider the request at its next regularly scheduled meeting, but not earlier than ten days from the date of submission. The petitioner or petitioner's representative shall appear before the planning commission in order to answer questions concerning the proposed permit. The planning commission shall make its recommendation to the council within 60 days after the submission of the application. The council must take action on the application within 60 days of receiving the recommendation of the planning commission. If it grants the permit, the council may impose conditions it considers necessary to protect the health, safety, morals, or general welfare of the city and to ensure the use is in harmony with the general purpose of the intent of LEC 9.08.010 et seq. and the comprehensive plan. No application for a permit shall be re-submitted within six months from the date of the denial.
- (c) *Exclusions.* This section shall not apply to any parcel of land two acres in size or less, nor does it apply to the removal of diseased trees.
- (d) *Permit duration.* The permit shall be valid for one year unless terminated by the council for failure to comply with the provision of LEC 9.08.010 et seq.

- (e) *Fee.* The fee for the permit shall be the fee for certain occupations as set by resolution of the council.

(Code 1997, § 905.03; Code 2007, § 91.02)

9.08.030 Application--Commercial Lumbering Or Harvesting

The application for a permit for commercial lumbering or harvesting of forest products shall contain:

- (a) The name and address of the operator and owner of the land;
- (b) The legal description of the land involved;
- (c) Names of neighboring landowners within 350 feet;
- (d) The plan of operation, approved by the forestry extension service of the University of Minnesota;
- (e) The plan of reforestation, approved by the forestry extension service of the University of Minnesota; and
- (f) A bond sufficient to cover the costs of reforestation required by LEC 9.08.010 et seq.

(Code 1997, § 905.04; Code 2007, § 91.03)

9.08.040 Application--Removal Of Trees From Any Forested Area

The application for a permit for the removal of trees from any forested area shall contain:

- (a) The name and address of the operator and owner of the land;
- (b) The legal description of the land involved;
- (c) Names of neighboring landowners within 350 feet; and
- (d) The plan of reforestation.

(Code 1997, § 905.05; Code 2007, § 91.04)

9.08.050 Reforestation, Rural Land

Reforestation of rural land shall be in accordance with the plan approved by the extension forestry service of the University of Minnesota.

(Code 1997, § 905.06; Code 2007, § 91.05)

9.08.060 Reforestation Of Land, Subdivided

- (a) A subdivision planting plan shall be submitted.
- (b) The plan shall be in accordance with the provisions in LEC title 103.

(Code 1997, § 905.07; Code 2007, § 91.06)

9.08-II TREE DISEASES

9.08.070 Declaration Of Policy

9.08.080 Forester Position Created

9.08.090 Duties Of Forester

9.08.100 Nuisance Declared

9.08.110 Inspection And Investigation

9.08.120 Abatement Of Dutch Elm Disease And Oak Wilt Nuisances

9.08.130 Action By Forester

9.08.140 Spraying Elm Or Oak Trees

9.08.150 Transporting Elm Wood Prohibited

9.08.160 Interference Prohibited

9.08.070 Declaration Of Policy

The council determines that the health of the elm and oak trees within the municipal limits is threatened by fatal diseases known as Dutch elm and oak wilt diseases, and other trees may be threatened by other epidemic diseases of shade trees. It further determines that the loss of elm, oak, and other 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 conveniences of the public. It is declared to be the intention of the council to control and prevent the spread of those diseases and LEC 9.08.070 et seq., is enacted for that purpose.

(Code 1997, § 910.01; Code 2007, § 91.20)

9.08.080 Forester Position Created

The powers and duties of the city forester as set forth in this subchapter are conferred upon the persons or employees whom the council shall deem appropriate.

(Code 1997, § 910.02; Code 2007, § 91.21)

9.08.090 Duties Of Forester

- (a) It is the duty of the forester to coordinate, under the direction and control of the council, all activities of the municipality relating to the control and prevention of Dutch elm, oak wilt, or similar plant pests or plant diseases.
- (b) The forester shall recommend to the council the details of a program for the control of Dutch elm disease, oak wilt, or similar plant pests or plant diseases,

and perform the duties incident to the program adopted by the council.

(Code 1997, § 910.03; Code 2007, § 91.22)

9.08.100 Nuisance Declared

(a) *Nuisance defined.* The following are public nuisances wherever they may be found within the city:

- (1) Any living or standing elm tree or part of the elm tree infected to any degree with Dutch elm disease fungus *Ceretocystis Uhni* (Buisman) Moreau, or which harbors any of the elm bark beetles, *Scolytus Multistriatus* (Eichh.), or *Hylugopinus Rufites* (Marsh);
- (2) Any dead elm tree or part of the tree, including branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;
- (3) Any living or standing oak tree or part of an oak tree infected to any degree with the oak wilt fungus, *Endoconidiothora Faga-ceaarum*; and/or
- (4) Any dead oak tree or part which, in the opinion of the forester, constitutes a hazard, including, but not limited to, logs, branches, stumps, roots, firewood, or other oak material, which has not been stripped of its bark and burned or sprayed with an effective fungicide.

(b) *Abatement.* It is unlawful for any person to permit any public nuisance as defined in subsection (a) of this section to remain on any premises owned or controlled by that person within the city. The nuisance may be abated in the manner prescribed by LEC 9.08.120 et seq.

(Code 1997, § 910.04; Code 2007, § 91.23)

9.08.110 Inspection And Investigation

(a) *Inspection.* As often as practicable, the forester shall inspect all public and private premises within the city which might harbor any plant pest as defined in M.S.A. § 18.46, subd. 13, as it may be amended from time to time, to determine whether any condition described in LEC 9.08.100 exists. The forester shall investigate all reported incidents of infestation by Dutch elm fungus, elm bark beetles, oak wilt fungus, or any other epidemic disease of shade trees.

(b) *Entry on private premises.* The forester or forester's duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned the forester under LEC 9.08.070 et seq.

(c) *Diagnosis.* The forester shall, upon finding conditions indicating Dutch elm

infestation or oak wilt, immediately send appropriate specimens or samples to the commissioner of agriculture for analysis, or take the other steps for diagnosis as may be recommended by the commissioner. Except as provided in LEC 9.08.130, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

(Code 1997, § 910.05; Code 2007, § 91.24)

9.08.120 Abatement Of Dutch Elm Disease And Oak Wilt Nuisances

In abating the nuisances defined in LEC 9.08.100, the forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of epidemic diseases, including Dutch elm disease or oak wilt disease. The forester shall also take steps that are necessary to prevent root graft transmission of the diseases. The abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the commissioner of agriculture.

(Code 1997, § 910.06; Code 2007, § 91.25)

9.08.130 Action By Forester

- (a) Whenever the forester finds with reasonable certainty that the infestation defined in LEC 9.08.100 exists in any tree or wood in any public or private place in the city, the forester shall in writing notify the owner of the existence of a nuisance, which notice shall state that the owner has 60 days to abate the nuisance and avoid city action. A copy of the notice shall be transmitted to the city clerk for the information of the council. If within the 60-day period the property owner has not abated the nuisance, the forester shall report all the facts surrounding the unabated nuisance to the council.
- (b)
 - (1) *Abatement.* Upon receipt of the forester's report required by this section, the council shall, by resolution, order the nuisance abated. Before action is taken on the resolution, the council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At the hearing or adjournment of the hearing, the council shall hear property owners with reference to the scope and desirability of the proposed project. The council shall then adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.
 - (2) *Records.* The forester shall keep a record of the costs of abatements done

under LEC 9.08.070 et seq. and shall report monthly to the administrator all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

- (3) *Assessment.* On or before September 1 of each year, the administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The council may then spread the charges or any portion of the charges against the property involved as a special assessment under M.S.A. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

(Code 1997, § 910 07; Code 2007, § 91.26)

9.08.140 Spraying Elm Or Oak Trees

- (a) *Treatment of nearby trees.* Whenever the forester determines that any elm or oak tree or elm or oak wood within the city is infected with Dutch elm fungus or oak wilt fungus, the forester may spray all nearby high value elm or oak trees with an effective elm bark beetle destroying concentrate or other appropriate substance suitable for destroying or controlling Dutch elm disease fungus or oak wilt fungus. Spraying activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans for the commissioner of agriculture and under the supervision of the commissioner and commissioner's agents whenever possible.
- (b) *Notice.* The notice provisions hereof apply to spraying operations conducted under this section.

(Code 1997, § 910.08; Code 2007, § 91.27)

9.08.150 Transporting Elm Wood Prohibited

It is unlawful for any person to transport within the city any bark-bearing elm wood without having obtained a permit from the forester. The forester shall grant the permits only when the purposes of LEC 9.08.070 et seq. will be served.

(Code 1997, § 910.09; Code 2007, § 91.28)

9.08.160 Interference Prohibited

It is unlawful for any person to prevent, delay, or interfere with the forester or forester's agents while they are engaged in the performance of duties imposed by LEC 9.08.070 et seq.

(Code 1997, § 910.10; Code 2007, § 91.29)

CHAPTER 9.12 ABANDONED PROPERTY

9.12.010 Abandoned Motor Vehicles

9.12.020 Other Abandoned Property

9.12.010 Abandoned Motor Vehicles

- (a) *Impoundment and sale.* The county sheriff's department shall take into custody and impound any abandoned motor vehicle as defined by M.S.A. § 168B.011, subd. 2, as it may be amended from time to time. It shall give notice of the taking as provided by law and, if the owner or any lienholder does not reclaim the vehicle within the period provided by law, it shall provide for the sale of the vehicle to the highest bidder at public auction or sale following two weeks' published notice.
- (b) *Summary action in certain cases.* When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in the state or any other state or foreign country, it shall immediately be eligible for sale under subsection (a) of this section and shall not be subject to the notification, reclamation, or title provisions of M.S.A. §§ 168B.01 to 168.101, as they may be amended from time to time.
- (c) *Disposition of proceeds.* The proceeds of the sale of an abandoned motor vehicle shall be placed in the general fund of the city. If the former owner or entitled lienholder makes application and furnishes satisfactory proof of ownership or lien interest within 90 days of the sale, the former owner shall be paid the proceeds of the sale of the vehicle less the cost of towing, preserving, and storing the vehicle and all administrative, notice, and publication costs incurred in its handling.

(Code 1997, § 110.01; Code 2007, § 92.01)

9.12.020 Other Abandoned Property

- (a) *Procedure.* All other property lawfully coming into the possession of the city shall be disposed of as provided in this section.
- (b) *Storage.* The department of the city acquiring possession of the property shall arrange for its storage. If city facilities for storage are unavailable or inadequate, the department may arrange for storage at privately-owned facilities.
- (c) *Claim by owner.* The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.
- (d) *Sale.* If the property remains unclaimed in the possession of the city for 60 days,

the property shall be sold to the highest bidder at a public auction conducted by the county sheriff's department after two weeks' published notice setting forth the time and place of the sale and the property to be sold.

- (e) *Disposition of proceeds.* The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

(Code 1997, § 110.02; Code 2007, § 92.02)

CHAPTER 9.16 STREETS AND SIDEWALKS

9.16-I STREETS

9.16-II DRIVEWAYS

9.16-III BOULEVARDS

9.16-IV SIDEWALKS

9.16-I STREETS

9.16.010 Application

9.16.020 Permit Required For Work On Public Property

9.16.010 Application

All streets hereafter constructed within the city shall meet the specifications set forth in LEC title 103.

(Code 1997, § 1400.01; Code 2007, § 93.01)

9.16.020 Permit Required For Work On Public Property

No person, other than the city or its employees, shall do any work of any kind whatsoever in any public right-of-way or any other public property within the city, without first having obtained a permit for the work from the properly designated city employee, after the application for the work has been approved by the city engineer. The term "work," includes, but is not limited to, any improvement, construction, or alteration of sidewalks, curb or gutter, driveways, tree planting, boulevards, and drainage facilities.

(Code 1997, § 1400.02; Code 2007, § 93.02)

9.16-II DRIVEWAYS

9.16.030 Purpose

9.16.040 Permit Requirements

9.16.050 Application

9.16.060 Permit Fees

9.16.070 Permit Revocation

[9.16.080 General Requirements](#)

[9.16.090 Driveway Standards](#)

[9.16.100 Parking Areas](#)

9.16.030 Purpose

The purpose of LEC 9.16.030 et seq., is to control the location of driveways and curb cuts in order that traffic hazards be reduced, adequate street drainage be maintained, and that ingress and egress from properties shall not constitute a hazard or impair the health, safety, or general welfare of the residents of the city.

(Code 1997, § 1405.01; Code 2007, § 93.20; Ord. No. 08-096, 12-3-2013)

9.16.040 Permit Requirements

No driveway shall be constructed in any location where motor vehicles will be provided with access to any public right-of-way without first obtaining a permit for construction. Prior to the issuance of the permit, the provisions of this subchapter shall be complied with.

(Code 1997, § 1405.02; Code 2007, § 93.21; Ord. No. 08-096, 12-3-2013)

9.16.050 Application

Applications for permits shall be made in writing upon printed forms furnished by the city. Each application for a permit shall have thereon the correct legal description of the property and a drawing of the land showing the location of the proposed driveway with respect to the boundary lines of the property. The written application shall describe the project along with a site plan that indicates that the requirements of this subchapter are met.

(Code 1997, § 1405.03; Code 2007, § 93.22; Ord. No. 08-096, 12-3-2013)

9.16.060 Permit Fees

The permit fees shall be set in the city's fee schedule by ordinance by the city council.

(Code 1997, § 1405.04; Code 2007, § 93.23; Ord. No. 08-096, 12-3-2013)

9.16.070 Permit Revocation

The permit issued may be revoked by the city at any time after its issuance for failure to comply with the conditions of the permit or the directions of the city relative to the work covered by the permit.

(Code 1997, § 1405.05; Code 2007, § 93.24; Ord. No. 08-096, 12-3-2013)

9.16.080 General Requirements

- (a) *Licensed contractor.* All work done within the right-of-way of the street shall be done by a city licensed contractor as specified in LEC 11.24.
- (b) *Site plan.* Prior to the construction of a driveway, a scaled plan must be submitted which indicates the location and specifications for driveways and curb cuts, the widths and dimensions at the street, property line and building structure, the slope of the driveway, and the location of the curb box as applicable in accordance with LEC 9.16.030 et seq. The site plan submitted shall be approved prior to the issuance of a permit for a driveway.

(Code 1997, § 1405.06; Code 2007, § 93.25; Ord. No. 08-096, 12-3-2013)

9.16.090 Driveway Standards

The following regulations shall apply to all driveways and curb cuts. All driveway work shall be constructed in accordance with the approved site plan. No deviations or changes shall be made in the field without first obtaining permission from the city.

- (a) *Driveway width.* All driveways shall conform to the following requirements:

- (1) *Residential districts.*

- a. *Minimum width.* All driveways shall have a minimum width of 12 feet.
 - b. *Maximum width.* All driveways shall have a maximum width of 26 feet within the public right-of-way. In the absence of platted right-of-way, the setback at which point the driveway width is measured shall be established by the prescriptive easement as determined by the city engineer. Increased driveway width in the public right-of-way up to commercial standard (34 feet) will be considered for active farms or agricultural properties.
 - c. *Curb cut.* A curb cut must not exceed the width of the driveway approach at the property line by more than ten feet.

- (2) *Commercial and mixed-use districts.*

- a. *Minimum width.* All driveways shall have a minimum width of 20 feet.
 - b. *Maximum width.* All driveways shall have a maximum width of 34 feet at the point it intersects the right-of-way line.
 - c. *Curb cut.* A curb cut must not exceed the width of the driveway approach at the property line by more than ten feet.

- (b) *Vertical clearance.* There must be 14 feet of vertical clearance above all driveways.
- (c) *Number of curb cuts.* In residential districts, each property shall be limited to one curb cut per dwelling unit. Up to two curb cuts may be allowed when neither access is onto a collector or arterial street when the lot exceeds 150 feet in width, when there is a minimum of 40 feet of spacing between driveway curb radii, and when the total width of both driveways does not exceed 26 feet.
- (1) *Additional curb cuts.* Regardless of the road classification, properties having access to a road that is not under the jurisdiction of the City may obtain additional curb cuts by receiving permission from the overseeing entity of that roadway. The total accumulation of the driveway width is further determined by that entity and is not limited to 26 feet.
- (2) *Distance between driveways.* The minimum distance between curbs of driveways at the right-of-way line shall be ten feet in any residential district. Lots that have been developed with zero lot line setbacks may be exempt from this provision. In all other districts, the minimum distance shall be 20 feet.
- (3) *Distance from intersection.* No driveway or curb cut shall be less than 20 feet from any right-of-way line of any street intersection, except that in high density residential, commercial and mixed-use zoning districts, the minimum distance shall be 50 feet.
- (4) *Driveway angle.* All driveways shall connect to the public street at 90-degree angles, or must be approved by the city engineer. Exceptions must demonstrate an inability to meet the 90-degree angle due to extenuating circumstances.
- (5) *Driveway grade.* Driveways exceeding a grade of ten percent must be approved by the city engineer. Exceptions must demonstrate an inability to meet the ten percent maximum grade due to extenuating circumstances.
- (6) *Driveway materials.*
- a. *Urban districts.* All driveways shall be constructed of hot mix bituminous asphalt, concrete or a durable material approved by the city engineer.
- b. *Rural districts.* Driveways may be constructed of crushed rock or equivalent crushed material, provided that the portion of the driveway within the road right-of-way shall be constructed of hot mix bituminous asphalt, concrete or a durable material approved by the city engineer when the driveway is accessing an improved street.

(7) *Curb box, residential districts.* Curb boxes located within driveway shall be protected with an Al Ford Lid or approved equal.

(8) *Control of traffic.*

- a. Where other alternatives exist, commercial sites should not be accessed from local residential streets.
- b. Traffic shall be controlled to ensure that the location of driveways shall not constitute a hazard nor be injurious to adjacent residential uses.

(9) *Access to major streets (thoroughfares).* On properties having frontage on both thoroughfares and minor roads, access shall be provided via the minor road unless otherwise approved by the city engineer. Access may be restricted on any nonresidential local road. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

(10) *Collector or arterial streets and state and county highway requirements.* Driveways constructed to access any nonresidential (collector or arterial) street or street designated as a state or county highway shall meet all additional specifications of the appropriate jurisdiction. Access drives onto collector or arterial streets or state and county roads shall require a review by the road authority and the city engineer. The state, county and city engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

(11) *Distance from driveways to side lot line.* A driveway must be at least five feet from any side lot line.

(12) *Emergency vehicle access.* Driveways to principal structures that traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.

(Code 1997, § 1405.07; Code 2007, § 93.26; Ord. No. 97-18, 9-16-1997; Ord. No. 08-096, 12-3-2013; Ord. No. 08-099, 2-5-2014; Ord. No. 08-109, 5-20-2014; Ord. No. 08-206, § 1, 4-3-2018; Ord. No. 08-232, § 1, 1-7-2020)

9.16.100 Parking Areas

The parking restrictions applicable to driveways are stated in the zoning code codified in LEC title 105.

(Code 1997, § 1405.08; Code 2007, § 93.27; Ord. No. 08-096, 12-3-2013)

9.16-III BOULEVARDS

9.16.110 Maintenance Responsibility

9.16.110 Maintenance Responsibility

- (a) *Keeping property in safe condition.* The owner and the occupant of any property adjacent to a boulevard within the city shall use due diligence to keep the boulevard in a safe condition. The owner or occupant shall not allow any noxious weeds, rubbish, dead trees or branches, or other debris to remain on the boulevard longer than 12 hours after its deposit on the property. The owner or occupant shall abate or prevent the nuisance on the property.
- (b) *Requiring compliance to specific sections of this Code.* The owners and the occupant of any property adjacent to a boulevard within the city shall use due diligence to abate or prevent the nuisances described in LEC 9.28.030 and LEC 105.04.080 et seq. Failure to control these nuisances shall constitute a violation of this Code.

(Code 1997, § 1410.02; Code 2007, § 93.41)

9.16-IV SIDEWALKS

9.16.120 Sidewalk Snow Removal

9.16.120 Sidewalk Snow Removal

- (a) *Removal of snow and ice from sidewalks.* The owner or occupant of any property within the city's corporate limits that fronts upon any public street that has an abutting sidewalk must remove any snow or ice from the sidewalk within 48 hours following the termination of any snow or ice formation. The owner or occupant of the property abutting the sidewalk must keep the abutting sidewalk reasonably clear and free of any snow or ice.
- (b) *Nuisance.* Failure by the owner or occupant of the property abutting the sidewalk to comply with this section shall constitute a nuisance and the nuisance may be abated by the city in accordance with LEC 9.28.

(Ord. No. 08-216, § 2(93.50), 12-4-2018)

CHAPTER 9.20 RIGHT-OF-WAY MANAGEMENT PERMITS

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9.20.010 Findings And Purpose

- (a) To provide for the health, safety, and well-being of its citizens, and to ensure the structural integrity of its streets 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, a primary cause for the early and excessive deterioration of its rights-of-way is frequent excavation.
- (b) Right-of-way obstruction is a source of frustration for merchants, business owners, and the general population which must avoid these obstructions or change travel or shopping plans because of them and has a detrimental effect on commerce. Persons whose equipment is within the right-of-way are the primary cause of these frequent obstructions.
- (c) 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 millions of dollars in public funds to build and maintain the rights-of-way. The city also recognizes that some persons, by placing their equipment in the right-of-way and charging the citizens of the city for goods and services delivered thereby, are using this property held for the public good. Although the services are often necessary or convenient for the citizens, the persons receive revenue and/or profit through their use of public property.
- (d) The state legislature has recognized that it is in the public's interest that the use and regulation of rights-of-way be carried on in a fair, efficient, competitively neutral, and substantially uniform manner while recognizing the regulation must reflect distinct engineering, construction, operation, maintenance, and public and worker safety requirements and standards applicable to various users of rights-of-way. Further, the legislature has determined that, because increasing numbers of persons may seek usage of rights-of-way, municipalities such as the city must be and have been authorized to regulate use of rights-of-way. Consistent with this mandate, the city has endeavored to model its right-of-way regulations consistent with those of models enacted or under consideration by municipalities throughout the state. Further, the city has endeavored to create competitively neutral rights-of-way standards and regulations of general applicability.
- (e) In response to the foregoing facts, the city hereby enacts this chapter relating to

right-of-way management. This chapter imposes reasonable regulations on the placement and maintenance of facilities 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 chapter, persons disturbing and obstructing the rights-of-way will bear a fair share of the financial responsibility for the integrity of the city's rights-of-way. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

- (f) By enactment of this chapter, the city council hereby exercises its lawful police power and common law authority, and all statutory authority which is available to it, including, but not limited to, the powers conferred on it under M.S.A. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the Act), as amended from time to time, while preserving all power and authority to further require franchises from rights-of-way users under M.S.A. §§ 216B.36, 222.37, 300.03, and 412.11, as amended from time to time, Minn. R. ch. 7819 and Minn. R. ch. 7560 where possible, and other provisions of law. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public shall prevail.

(Code 2007, § 94.01; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.01), 9-5-2017)

9.20.020 Election To Manage The Public Rights-Of-Way

Pursuant to the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects, pursuant to M.S.A. § 237.163, subd. 2b, to manage rights-of-way within its jurisdiction.

(Ord. No 08-185, § 1(94.02), 9-5-2017)

9.20.030 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:

Abandoned facility means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

Collocate or *collocation* means to install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit. See M.S.A. § 237.162, subd. 10.

Construction performance bond means any of the following forms of security provided at permittee's option:

- (a) Individual project bond;
- (b) Cash deposit;
- (c) Security of a form listed or approved under M.S.A. § 15.73, subd. 3;
- (d) Letter of credit, in a form acceptable to the city;
- (e) Self-insurance, in a form acceptable to the city;
- (f) A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

Degradation means the accelerated depreciation of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct the 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; the cost to achieve a level of restoration, subject to Minn. R. part 7819.1100, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates one to 13, set forth in Minn. R. parts 7819.9900 to 7819.9950.

Degradation fee means the estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

Delay penalty means the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

Department means the department of public works of the city.

Department inspector means any person authorized by the administrator to carry out inspections related to the provisions of this chapter.

Emergency means a condition that:

- (a) Poses a danger to life or health, or of a significant loss of property; or
- (b) Requires immediate repair or replacement of facilities in order to restore service to a customer.

Equipment means any tangible 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, except horticultural practices of penetrating the boulevard area to a depth of less than 12 inches.

Excavation permit means the permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in the permit.

Excavation permit fee means money paid to the city by an applicant to cover the costs as provided in the city fee schedule.

Facility or facilities means any tangible asset in the right-of-way required to provide utility service.

Five-year project plan shows projects adopted by the city for construction within the next five years.

High density corridor means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

In, when used in conjunction with "right-of-way," means over, above, in, within, on, or under a right-of-way.

Local representative means a local person or persons, or designee of the person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

Management 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 or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits and performing all other tasks required by this chapter, including other costs the city may incur in managing the provisions of this chapter. The term "management cost" does not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and costs of litigation relating to the interpretation of M.S.A. § 237.162 or 237.163, as they may be amended from time to time, or any ordinance enacted under those sections, or the city's fees and costs related to appeals taken pursuant to LEC 9.20.340.

Obstruct means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

Obstruction permit means the permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.

Obstruction permit fee means money paid to the city by a permittee to cover the costs as provided in LEC 9.20.170.

Patch or patching.

- (a) The term "patch" or "patching" means a method of pavement replacement that is temporary in nature.
- (b) A patch consists of:
 - (1) The compaction of the sub-base and aggregate base; and
 - (2) The replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions.
- (c) A patch is considered full restoration only when the pavement is included in the city's five-year project plan.

Pavement means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Performance security means a performance bond, a restoration bond, a letter of credit, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation and obstruction work is completed in both a timely and quality manner.

Permit has the meaning given to the term "right-of-way permit" in M.S.A. § 237.162.

Permittee means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

Person means an individual or entity subject to the laws and rules of the state, however organized, whether public or private, whether domestic or foreign, whether for profit or non-profit, and whether natural, corporate, or political.

Probation means the status of a person that has not complied with the conditions of this chapter.

Probationary period means one year from the date that a person has been notified in writing that they have been put on probation.

Registrant means any person who:

- (a) Has or seeks to have its equipment or facilities located in any right-of-way; or
- (b) In any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

Repair means the temporary construction work necessary to make the right-of-way usable for travel.

Restoration cost means an amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of the state public utilities commission rules.

Restore or restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

Right-of-way or public right-of-way means the surface and space on, above and below a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.

Right-of-way permit means either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

Right-of-way user means:

- (a) A telecommunications right-of-way user as defined by M.S.A. § 237.162, subd. 4; or
- (b) A person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

Service or utility service means and includes, but is not limited to:

- (a) Those services provided by a public utility as defined in M.S.A. § 216B.02, subds. 4 and 6, as it may be amended from time to time;
- (b) Services of a telecommunications right-of-way user, including transporting of voice or data information;
- (c) Services of a cable communications system as defined in M.S.A. ch. 238;
- (d) Natural gas or electric energy or telecommunications services provided by the

city;

- (e) Services provided by a cooperative electric association organized under M.S.A. ch. 308A;
- (f) A telecommunication right-of-way user;
- (g) Water, and sewer, including service laterals, steam, cooling, or heating services.

Service lateral means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

Small wireless facility means a wireless facility that meets both of the following qualifications:

- (a) Each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and
- (b) All other wireless equipment associated with the small wireless facility, provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding 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.

Supplementary application means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

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 providing wireless service, or transporting telecommunication or other voice or data information. For the purposes of this chapter, a cable communication system defined and regulated under M.S.A. ch. 238, as it may be amended from time to time, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in M.S.A. § 216B.02, a municipality, a municipal gas or power agency organized under M.S.A. chs. 453 and 453A, or a cooperative electric association organized under M.S.A. ch. 308A, are not telecommunications right-of-way users for the purpose of this chapter except to the extent such entity is offering wireless service.

Unusable equipment means equipment in the right-of-way which has remained unused for one year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next 12 months or a potential purchaser or user of the equipment.

Utility pole means a pole that is used in whole or in part to facilitate telecommunications or electric service.

Wireless facility means equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

Wireless service means any service using licensed or unlicensed wireless spectrum, including the use of wi-fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. The term "wireless service" does not include services regulated under title VI of the Communications Act of 1934, 47 USC 151 et seq., as amended, including cable service.

Wireless support structure means a new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

(Code 2007, § 94.02; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.03), 9-5-2017)

9.20.040 Administration

The administrator is the principal city official responsible for the administration of the right-of-way permits, and the regulations related thereto. The administrator may delegate any or all of the duties hereunder.

(Code 2007, § 94.03; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.04), 9-5-2017)

9.20.050 Franchise; Franchise Supremacy

The city may, in addition, to the requirements of this chapter, require that any person, which has or seeks to have equipment located in any right-of-way, obtain a franchise for the full extent permitted by law, now or hereinafter enacted. The terms of any franchise which is in direct conflict with any provision of this chapter, whether granted prior or subsequent to enactment of this chapter, shall control and supersede the conflicting terms of this chapter; provided, however, that requirements relating to insurance, bonds, penalties, security funds, letters of credit, indemnification, or any other security in favor of the city may be cumulative in the sole determination of the city or unless otherwise negotiated by the city and the franchise grantee. All other terms of this chapter shall be fully applicable to all persons, whether franchised or not.

(Code 2007, § 94.04; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.05), 9-5-2017)

9.20.060 Reservation Of Regulatory And Police Powers

A permittee's or registrant's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

(Code 2007, § 94.05; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.06), 9-5-2017)

9.20.070 Severability; Revocable Permits

If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right, or registration issued under this chapter or any portions of this chapter is illegal or unenforceable, then the permit, right, or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving 60-days' written notice to the other. The requirements and conditions of the revocable permit shall be the same requirements and conditions as set forth in the permit, right, or registration, respectively, except for conditions relating to the term of the permit and the right of termination. If a permit, right, or registration shall be considered a revocable permit as provided herein, the permittee must acknowledge the authority of the city council to issue the revocable permit and the power to revoke it. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

(Code 2007, § 94.06; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.07), 9-5-2017)

9.20-II REGISTRATION

[9.20.080 Registration And Right-Of-Way Occupancy](#)

[9.20.090 Registration Information](#)

[9.20.100 Reporting Obligations](#)

9.20.080 Registration And Right-Of-Way Occupancy

- (a) *Registration.* Each person who occupies, uses, or seeks to occupy or use the right-of-way or any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, must register with the city. Registration will consist of providing application information.
- (b) *Registration prior to work.* No person may construct, install, repair, remove, relocate, or perform any other work on or use any facilities or any part thereof in any right-of-way without first being registered with the city.
- (c) *Exceptions.* Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb.

Except as hereinafter provided, persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining the boulevard plantings or gardens under this chapter. However, excavations deeper than 12 inches are subject to the permit requirements of LEC 9.20.110. Nothing herein relieves a person from complying with the provisions of M.S.A. ch. 216D, as it may be amended from time to time, the "Gopher One Call" Law."

(Code 2007, § 94.20; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.20), 9-5-2017)

9.20.090 Registration Information

(a) *Information required.* The information provided to the city at the time of registration shall include, but not be limited to:

- (1) Each registrant's name, Gopher One Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers;
- (2) The name, address and email address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration;
- (3) A certificate of insurance shall be on a form approved by the city:
 - a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or that registrant is covered by self-insurance which the administrator determines to provide the city with protections equivalent to that of a state licensed insurance company, legally independent from the registrant;
 - b. Verifying 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 facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, and that registrant's insurance coverage includes, but is not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;
 - c. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for

whom defense will be provided as to all the coverages;

- d. Requiring that the city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and
- e. Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the city in amounts sufficient to protect the city and carry out the purposes and policies of this chapter;

(4) The city may require a copy of the actual insurance policies;

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S.A. § 300.06 as recorded and certified to by the Secretary of State;

(6) A copy of the person's certificate of authority from the state public utilities commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency; and

(7) The other information as the city may require.

(b) *Notice of changes.* The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within 15 days following the date on which the registrant has knowledge of any change.

(Code 2007, § 94.21; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.21), 9-5-2017)

9.20.100 Reporting Obligations

(a) *Operations.* Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city.

(1) The plan shall be submitted by using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

(2) The plan shall include, but not be limited to, the following information:

a. The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (a next-year project); and

b. To the extent known, the tentative locations and estimated

beginning and ending dates for all projects contemplated for the five years following the next calendar year (a five-year project).

- (3) The term "project" in this chapter shall include both next-year projects and five-year projects.
 - (4) By January 1 of each year, the city will have available for inspection in the administrator's office a composite list of all projects of which the city has been informed in the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.
 - (5) Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all the changes in the list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.
- (b) *Additional next-year projects.* Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

(Code 2007, § 94.22; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.22), 9-5-2017)

9.20-III PERMITS

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9.20.110 Right-Of-Way Permit

- (a) *Right-of-way permit required.* Except as otherwise provided in the city's regulations, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the city and posting of the appropriate construction performance bond with the city.
 - (1) *Excavation permit.* An excavation permit is required by a registrant to excavate that part of the right-of-way described in the permit and to hinder

free and open passage over the specified portion of the right-of-way by placing equipment described therein, to the extent and for the durations specified therein.

- (2) *Obstruction permit.* An obstruction permit is required by registrant to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein on the right-of-way, to the extent and for the durations specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.
 - (3) *Small wireless facility permit.* A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.
- (b) *Right-of-way permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new right-of-way permit, or right-of-way permit extension, is granted.
 - (c) *Delay penalty.* In accordance with Minn. R. part 7819.1000, subpt. 3, and notwithstanding the provisions of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by city council resolution.
 - (d) *Right-of-way permit display.* Right-of-way permits issued under this chapter shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by the city.
 - (e) *Construction performance bond.* The construction performance bond shall be in an amount determined in the city's sole discretion, sufficient to serve as security for the full and complete performance of permittee's obligation under this chapter, including any costs, expenses, damages, or loss the city pays or incurs because of any failure to comply with this chapter or any other applicable law, regulation, or standard. During the period of construction, repair, or restoration of rights-of-way or facilities within the rights-of-way, the construction performance bond shall be in an amount sufficient to cover 125 percent of the estimated cost of the work, as documented by the person proposing to perform the work, or in a lesser amount as may be determined by the city, taking into account the amount of facilities in the right-of-way, the location and method of installation of the facilities, the conflict or interference of the facilities with the equipment facilities of other persons, and the purposes and policies of this chapter. Sixty days after

completion of the work, the construction performance bond may be reduced in the sole determination of the city.

(Code 2007, § 94.35; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.35), 9-5-2017)

9.20.120 Application For A Right-Of-Way Permit

- (a) Applications for a right-of-way permit is made to the city through the administrator.
- (b) Right-of-way permit applications shall contain and will be considered complete only upon compliance with the requirements of the following provisions:
 - (1) Registration with the city pursuant to this chapter;
 - (2) Submissions of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities;
 - (3) Payment of all money due to the city for:
 - a. Permit fees, estimated restoration costs, and other management costs;
 - b. Prior obstructions or excavations;
 - c. Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; and/or
 - d. Franchise fees or other charges, if applicable;
 - (4) Payment of disputed amounts due the city by posting security or depositing in a city-approved escrow account an amount equal to at least 125 percent of the amount owing;
 - (5) When an excavation permit is requested for the purposes of installing additional facilities, and the posting of a construction performance bond for the additional facilities is insufficient, the posting of an additional or larger construction performance bond for the additional facilities may be required; and
 - (6) A stormwater management plan and/or an erosion and sediment control plan if applicable as specified in LEC 105.04.830.

(Code 2007, § 94.36; Ord. No. 9756, 6-20-2000; Ord. No. 08-024, 4-20-2010; Ord. No. 08-185, § 1(94.36), 9-5-2017)

9.20.130 Issuance Of Permit; Conditions

- (a) *Permit issuance.* If the administrator determines that the applicant has satisfied the requirements of this chapter, the city shall issue a permit.
- (b) *Conditions.* The city 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. In addition, a permittee shall comply with all requirements of local, state and federal laws, including, but not limited to, M.S.A. ch. 216D (Gopher One Call Excavation Notice System) and Minn. R. ch. 7560.

(1) *Small wireless facility conditions.* In addition, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

- a. A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
- b. No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety, and welfare or to protect the right-of-way and its current use, and further, provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
- c. No wireless facility may extend more than ten feet above its wireless support structure.
- d. Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
- e. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
- f. Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of

such structure.

(2) *Small wireless facility agreement.* A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:

- a. Up to \$150.00 per year for rent to collocate on the city structure;
- b. \$25.00 per year for maintenance associated with the collocation;
- c. A monthly fee for electrical service as follows:
 1. \$73.00 per radio node less than or equal to 100 maximum watts;
 2. \$182.00 per radio node over 100 maximum watts; or
 3. The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit; provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

(Code 2007, § 94.37; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.37), 9-5-2017)

9.20.140 Action On Small Wireless Facility Permit Applications

(a) *Deadline for action.* The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

(b) *Consolidated applications.*

(1) An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by the city, provided that all small wireless facilities in the application:

- a. Are located within a two-mile radius;

- b. Consist of substantially similar equipment; and
 - c. Are to be placed on similar types of wireless support structures.
- (2) In rendering a decision on a consolidated permit application. the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.
- (c) *Tolling of deadline.* The 90-day deadline for action on a small wireless facility permit application may be tolled if:
 - (1) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
 - (2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt of the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.
 - (3) The city and a small wireless facility applicant agree in writing to toll the review period.

(Ord. No. 08-185, § 1(94.39), 9-5-2017)

9.20.150 Right-Of-Way Permit Fees

- (a) *Excavation permit fee.* The excavation permit fee shall be established by the city in an amount sufficient to recover the following costs:
 - (1) The city management costs; and
 - (2) Degradation cost, if applicable.
- (b) *Obstruction permit fee.* The obstruction permit fee shall be established by the city and shall be in an amount sufficient to recover the city management costs.
- (c) *Small wireless facility permit fee.* The city shall impose a small wireless facility permit fee in an amount sufficient to recover:
 - (1) Management costs; and
 - (2) City engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

- (d) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay the fees within 30 days of billing.
- (e) *Non-refundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in LEC 9.20.250 are not refundable.
- (f) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(Code 2007, § 94.38; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.40), 9-5-2017)

9.20.160 Right-Of-Way Patching And Restoration

(a) *Timing.*

- (1) The work to be done under the excavation permit, and the patching and/or restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under LEC 9.20.190.
- (2) In addition to repairing its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of the work and use reasonable care to maintain the same condition for 36 months thereafter.

(b) *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or the city shall restore the right-of-way itself.

- (1) *City restoration.* If the city restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, during the 36 months following the restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, the cost of repairing the pavement.
- (2) *Permittee restoration.* If the permittee restores the right-of-way, it shall at the time of application for an excavation permit, post a construction performance bond in accordance with the provisions of Minn. R. part 7819.3000 in an amount determined by the administrator to be sufficient to cover the cost of restoring the right-of-way to its pre-excavation condition and reasonable, directly related costs that the city estimates will

be incurred if the right-of-way user fails to perform under the bond. Litigation costs and attorney fees are not direct costs to be included in calculating the amount of the bond. If, 24 months after completion of the restoration of the right-of-way, the city determines that the right-of-way has been properly restored, the construction performance bond shall be released.

- (c) *Standards.* The permittee shall perform excavation, backfilling, patching, and restoration according to the standards and with the materials specified by the city and shall comply with Minn. R. part 7819.1100. The city 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. The city, in exercising this authority, 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;
 - (3) The character of the neighborhood surrounding the right-of-way;
 - (4) The pre-excavation condition of the right-of-way;
 - (5) The remaining life-expectancy of the right-of-way affected by the excavation;
 - (6) Whether the relative cost of the method of restoration to the permittee 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
 - (7) The likelihood that the particular method or restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.
- (d) *Guarantees.* By choosing to restore the right-of-way itself, the permittee guarantees its work and shall maintain it for 36 months following its completion. During this 36-month period, it shall, upon notification from the city, correct all restoration work to the extent necessary, using the method required by the city. The work shall be completed within five calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of the circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under LEC 9.20.190.
- (e) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city, at its option, may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the

cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

- (f) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the costs to accomplish these responsibilities.

(Code 2007, § 94.39; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.41), 9-5-2017)

9.20.170 Joint Applications

- (a) *Joint application.* Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same time and place.
- (b) *With city projects.* Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee, but a permit would still be required.
- (c) *Shared fees.* Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(Code 2007, § 94.40; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.42), 9-5-2017)

9.20.180 Supplementary Applications

- (a) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.
- (b) *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be done before the permit end date.

(Code 2007, § 94.41; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.43), 9-5-2017)

9.20.190 Other Obligations

- (a) *Compliance with other laws.* Obtaining a right-of-way permit does not relieve the permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable county, state, or federal rules, laws, or regulations. A permittee shall comply with all requirements of local, state, and federal laws, including M.S.A. ch. 216D, as it may be amended from time to time (Gopher One Call Excavation Notice System), and Minn. R. ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
- (b) *Prohibited work.* Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for the work.
- (c) *Interference with right-of-way.*
 - (1) A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with.
 - (2) Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations.
 - (3) The loading or unloading of trucks next to a permit area is prohibited unless specifically authorized by the permit.
- (d) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in M.S.A. ch. 216D and Minn. R. ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the administrator.

(Code 2007, § 94.42; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.44), 9-5-2017)

9.20.200 Denial Or Revocation Of Permit

- (a) *Reasons for denial.* The city may deny a permit for failure to meet the requirements and conditions of this chapter, or if the city determines that the denial is necessary to protect the health, safety, and welfare of the public, or if necessary to protect the right-of-way and its current use.
- (b) *Procedural requirements.* The denial or revocation of a permit must be made in

writing and must document the basis for denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after resubmission.

(Code 2007, § 94.43; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.45), 9-5-2017)

9.20-IV REGULATIONS AND PROCEDURES

9.20.210 Installation Requirements

9.20.220 Inspection

9.20.230 Work Done Without A Permit

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9.20.260 Mapping Data

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9.20.350 Reservation Of Regulatory And Police Powers

9.20.360 Reservation Of Regulatory And Police Powers

9.20.210 Installation Requirements

The excavation, backfilling, patching, and restoration, and all other work performed in the right-of-way, shall be done in conformance with Minn. R. parts 7819.1100 and 7819.5000 and other applicable local requirements, insofar as they are not inconsistent with M.S.A. §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minn. R. ch. 7560 and this chapter. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits or agreements referenced in LEC 9.20.260(b).

(Code 2007, § 94.55; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.55), 9-5-2017)

9.20.220 Inspection

- (a) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. R. part 7819.1300.

(b) *Site inspection.* Permittee shall make the work site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(c) *Authority of administrator.*

- (1) At the time of inspection, the administrator may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.
- (2) The administrator may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the administrator that the violation has been corrected. If the proof has not been presented within the required time, the administrator may revoke the permit pursuant to LEC 9.20.250.

(Code 2007, § 94.56; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.56), 9-5-2017)

9.20.230 Work Done Without A Permit

(a) *Emergency situations.*

- (1) Each registrant shall immediately notify the administrator of any event regarding its facilities which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the 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 chapter for the actions it took in response to the emergency.
- (2)
 - a. If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency.
 - b. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(b) *Non-emergency situations.* Except in an emergency, any person who, without

first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for the permit, pay double all the other fees required by this Code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

(Code 2007, § 94.57; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1, 9-5-2017)

9.20.240 Supplementary Notification

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

(Code 2007, § 94.58; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.58), 9-5-2017)

9.20.250 Revocation Of Right-Of-Way Permits

- (a) *Substantial breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule, or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:
- (1) The violation of any material provision of the right-of-way permit;
 - (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
 - (3) Any material misrepresentation of fact in the application for a right-of-way permit;
 - (4) The failure to maintain the required bonds and/or insurance;
 - (5) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete the work is due to reasons beyond the permittee's control; or
 - (6) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to LEC 9.20.220.
- (b) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the city shall make a written demand upon the permittee to remedy the violation. The demand shall state that continued violations may be cause for revocation of the permit. Further, a substantial breach, as stated above, will allow the city, at its discretion, to place

additional or revised conditions on the permit to mitigate and remedy the breach.

(c) *Response to notice of breach.*

- (1) Within 24 hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach.
- (2) Permittee's failure to so contact the city, or the permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.
- (3) Further, permittee's failure to so contact the city, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one full year.

(d) *Cause for probation.* From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.

(e) *Automatic revocation.* If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

(f) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorney's fees incurred in connection with the revocation.

(Code 2007, § 94.59; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.59), 9-5-2017)

9.20.260 Mapping Data

(a) *Information required.* Each year, registrant and permittee shall provide mapping information required by the city in accordance with Minn. R. parts 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the administrator with accurate maps and drawings certifying the as-built location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the administrator. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

(b) *Service laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. R. part 7560.0150, subpt. 2, shall

require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the administrator reasonably requires it. Permittees or their subcontractors shall submit to the administrator evidence satisfactory to the administrator of the installed service lateral locations. Compliance with this subsection and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005 shall be a condition of any city approval necessary for:

- (1) Payments to contractors working on a public improvement project including those under M.S.A. ch. 429.
- (2) City approval under development agreements or other subdivision or site plan approval under M.S.A. ch. 462.

The administrator shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

(Code 2007, § 94.60; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.60), 9-5-2017)

9.20.270 Location Of Facilities

Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minn. R. parts 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

- (a) *Undergrounding.* Unless otherwise permitted by an existing franchise, or other agreement, or unless existing above-ground facilities are repaired or replaced, new construction and the installation of new facilities and replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes.
- (b) *Corridors.*
 - (1) The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.
 - (2) Any registrant whose facility is in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facility is located, move that facility to its assigned position within the right-of-way,

unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facility, public safety, customer service needs, and hardship to the registrant.

(c) *Nuisance.*

- (1) One year after the passage of this chapter, any facility found in a right-of-way that has not been registered shall be deemed to be a nuisance.
- (2) The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facility and restoring the right-of-way to a useable condition.

- (d) *Limitation of space.* To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making the decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

(Code 2007, § 94.61; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.61), 9-5-2017)

9.20.280 Relocation Of Facilities

- (a)
 - (1) A right-of-way user must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way whenever it is necessary to prevent interference, and not merely for convenience of the city, and shall restore the right-of-way to the same condition it was in prior to the removal or relocation.
 - (2) The city may make the request to a right-of-way user to remove and relocate its facilities when in connection with:
 - a. A present or future city use of the right-of-way for a public project;
 - b. When the public health and safety require it; or
 - c. The safety and convenience of travel over the right-of-way.
- (b) Notwithstanding the foregoing, a right-of-way user shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in

favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the right-of-way user.

(Code 2007, § 94.62; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1, 9-5-2017)

9.20.290 Pre-Excavation Facility And Facilities Location

In addition to complying with the requirements of M.S.A. ch. 216D (One Call Excavation Notice System), as it may be amended from time to time, before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and approximate vertical placement of all the equipment and facilities. Any registrant whose equipment or facilities are less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its equipment and facilities and the best procedure for excavation.

(Code 2007, § 94.63; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.63), 9-5-2017)

9.20.300 Damage To Other Facilities

- (a) When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing.
- (b)
 - (1) Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages.
 - (2) Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

(Code 2007, § 94.64; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.64), 9-5-2017)

9.20.310 Right-Of-Way Vacation

- (a) *Reservation of right.* If the city vacates a right-of-way which contains the facilities of a registrant, and if the vacation does not require the relocation of a registrant or permittee's facilities, the city shall, except when it would not be in the public interest, reserve to and for itself and all right-of-way users having facilities in the vacated right-of-way, the right to install, maintain, and operate facilities in the vacated right-of-way and to enter upon the right-of-way at any time for the purpose of reconstructing, inspecting, maintaining, or repairing the same.

(b) *Relocation of facilities.* If the vacation requires the relocation of registrant or permittee facilities, payment of the relocation costs must be determined as follows:

- (1) If the vacation proceedings are initiated by the right-of-way user, the right-of-way user must pay the relocation costs;
- (2) If the vacation proceedings are initiated by the city for a public project, the right-of-way user must pay the relocation costs unless otherwise agreed to by the city and the right-of-way user; or
- (3) If the vacation proceedings are initiated for the purposes of benefiting a person or persons other than the right-of-way user, the benefited person or persons must pay the relocation costs.

(Code 2007, § 94.65; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.65), 9-5-2017)

9.20.320 Indemnification And Liability

(a) By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. R. ch. 7819.

(b) Defense.

- (1) If a suit is brought against the city under circumstances where the registrant or permittee is required to indemnify, the registrant or permittee, at its sole cost and expense, shall defend the city in the suit if written notice of the suit is properly given to the registrant or permittee within a period in which the registrant or permittee is not prejudiced by the lack or delay of notice.
- (2) If the registrant or permittee is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permittee may not settle the litigation without the consent of the city. Consent will not be unreasonably withheld.
- (3) This part is not as to third-parties, a waiver of any defense, immunity, or damage limitation otherwise available to the city.
- (4) In defending an action on behalf of the city, the registrant or permittee is entitled to assert in an action every defense, immunity, or damage limitation that the city could assert in its own behalf.

(Code 2007, § 94.66; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.66), 9-5-2017)

9.20.330 Abandoned And Unusable Equipment

(a) *Discontinued operations.* A registrant who has determined to discontinue all or a portion of its operations in the city must either:

- (1) Provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant; or
- (2) Submit to the city a proposal and instruments for transferring ownership of its facilities to the city. If a registrant proceeds under this clause, the city may, at its option:
 - a. Purchase the equipment;
 - b. Require the registrant, at its own expense, to remove it; or
 - c. 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 equipment.

(b) *Removal.* Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

(Code 2007, § 94.67; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.67), 9-5-2017)

9.20.340 Appeals

(a) A right-of-way user that:

- (1) Has been denied registration;
- (2) Has been denied a permit;
- (3) Has had a permit revoked;
- (4) Believes that the fees imposed are not in conformity with M.S.A. § 237.163, subd. 6; or

(5) Disputes a determination of the administrator regarding LEC 9.20.250(b);

may have denial, revocation, or fee imposition reviewed, upon written request, by the city council.

(b) The city council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the city council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Code 2007, § 94.68; Ord. No. 9756, 6-20-2000; Ord. No. 08-185, § 1(94.68), 9-5-2017)

9.20.350 Reservation Of Regulatory And Police Powers

A permittee's rights are subject to the regulatory and policy powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety, and welfare of the public.

(Ord. No. 08-185, § 1(94.69), 9-5-2017)

9.20.360 Reservation Of Regulatory And Police Powers

If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

(Ord. No. 08-185, § 1(94.70), 9-5-2017)

CHAPTER 9.24 ANIMALS

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9.24.010 Purpose And Intent

The purpose of this chapter is to promote health, safety and general welfare of animals and the people around them by requiring animals be cared for in such a manner that they will not become a public nuisance, requiring animals be properly fed, sheltered and cared for, requiring the removal of animal defecation from public property and to ensure licensing of dogs and rabies vaccination of all dogs and cats within the city.

(Code 2007, § 95.001; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.001), 3-4-2020)

9.24.020 State Animal Cruelty Provisions Code Adopted

All of the relevant provisions of M.S.A. ch. 243 (Prevention of Cruelty to Animals), as amended, are hereby incorporated by reference into this chapter with the same force and effect as if fully set forth in this chapter.

(Code 2007, § 95.002; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.002), 3-4-2020)

9.24.030 Construction And Application

This chapter shall not be interpreted as covering any law regulating the trapping of animals, the use of live animals in dog trials or in training of hunting dogs, or the slaughter of animals by persons acting under state and federal law, or taking of animals through hunting or fishing as permitted by law.

(Code 2007, § 95.003; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.003), 3-4-2020)

9.24.040 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:

Adult dog means a dog over four months of age.

Animal means any live vertebrate or invertebrate creature, either domestic or wild, except a human being.

Animal control officer means any person designated by the city to enforce state statutes, adopted by reference, and local ordinances as they pertain to animal control.

Animal, dangerous, means any animal that is declared to be dangerous by the animal control officer after a temperament test has been conducted on the animal or as defined by LEC 1.08.

Animal shelter, public, means a facility operated by a humane society, or a governmental agency or its authorized agents for the purpose of impounding or caring for animals.

Animal, wild or exotic, means apes, coyotes, foxes, wolves, bears, cougars, lynx, bobcats, wild boars, cheetahs, jaguars, lions, tigers, leopards, panthers, ocelots, monkeys, elephants or other similar animals as determined by the humane officer.

At-large means to be off the premises of the owner and not under the control of some person, either by leash or otherwise, but a dog or cat within an automobile of its owner or in an automobile of any other person with the consent of the dog's or cat's owner, shall be deemed to be upon the owner's premises.

Cat means a domesticated animal of the feline type (*Felis domesticus*), except for a feral cat.

Cat, altered, means a cat which has been certified in writing by a veterinarian as being nonreproductive.

Cat, feral, means a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is unsocialized to people.

Circus means a commercial variety show featuring animal acts for public entertainment.

Commercial animal establishment means any pet shop, grooming shop or boarding kennel and shall exclude any city pound, humane society, animal shelter or veterinary facility.

Cruel means causing unnecessary and excessive pain or suffering or unjustifiable pain, injury or death to an animal.

Dog means a domesticated animal of the canine type (*Canis familiaris*); young animals (puppies) of this type are considered dogs. The term "dog" shall not include any animal which is in whole or in part of the *canis lupus* or wolf species.

Dog, altered, means a dog which has been certified in writing by a veterinarian as being nonreproductive.

Dog, service, means any dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair or fetching dropped items.

Foster parent, animal, means a person who provides temporary care for kittens, puppies, cats and dogs in their homes for six months or less at a time.

Grooming shop means a commercial establishment where animals are bathed, clipped or otherwise groomed.

Kennel means a facility where dogs, cats or other animals are kept for 24 hours or more for boarding, training or similar purposes for compensation. The term "kennel" does not include animal shelters or a facility owned or operated by a veterinarian where animals are boarded only in conjunction with the provision of veterinary care.

Owner. Any individual, partnership or corporation that has the right of property in an animal or who keeps, harbors, cares for or acts as its custodian or who knowingly permits an animal to remain on or about or return to his property/premises for five or more consecutive days is presumed to be harboring or keeping the animal within the meaning of this chapter.

Permanent animal exhibition means any spectacle, display, act or event, other than circuses, in which animals perform or are displayed, with the exception of education programs presented by persons or organizations with proper state and federal education permits, as required, and which are perpetual in nature and in a stationary location.

Person means and includes all natural persons and any firm, sole proprietorship, limited liability corporation (LLC), partnership, corporation, trust and any association of persons, government agency or political subdivision.

Pet means an animal kept for pleasure rather than utility, which may/may not be susceptible to rabies.

Pet shop means any person, sole proprietorship, limited liability corporation (LLC), partnership or corporation, whether operated separately or in connection with another business enterprise, except for a kennel, that buys, gives away, sells or takes on consignment any species of animal.

Temperament testing means evaluating an individual dog's temperament through a series of tests that measure traits including stability, confidence, shyness, friendliness, aggressiveness, protectiveness, prey instincts, play drive, and self-defense instincts, and the ability to distinguish between threatening and nonthreatening situations.

Transient animal exhibition means any spectacle, display, act or event, other than circuses, in which animals perform or are displayed, with the exception of education programs presented by persons or organizations with proper state and federal education permits, as required, and which are traveling shows of a temporary duration.

Veterinarian means as defined in Minn. R. 9100.0100.

Veterinary hospital or clinic means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries in animals.

(Code 2007, § 95.004; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.004), 3-4-2020)

9.24.050 Care Of Domesticated Animals

All domesticated animals shall be cared for, maintained and handled in a humane and sanitary manner and in such a way as to prevent noises such as barking, fighting or howling or other disturbance of the peace and quiet of the neighborhood. No domestic animal shall be abandoned or turned loose by its owner. No animal shall be inhumanely confined in a manner which causes or is likely to cause pain, suffering, injury or death. No person who owns, harbors, or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured.

(Code 2007, § 95.005; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.005), 3-4-2020)

9.24.060 Number Of Dogs And Cats Limited

- (a) *Nuisance*. The keeping of a large number of dogs or cats poses health, safety and public welfare risks and is deemed a public nuisance.
- (b) *Cats*. Unless the property owner has an authorized kennel, no individual or family unit living together, firm or corporation shall keep more than three cats over the age of four months on any parcel not zoned RT, A, or RR.
- (c) *Dogs*. Unless the property owner has an authorized kennel, no individual or family unit living together, firm or corporation shall keep more than three dogs over the age of four months on any parcel not zoned RT, A, or RR.
- (d) *Cats and dogs*. Unless the property owner has an authorized kennel, no individual or family unit living together, firm or corporation shall keep more than a combination of three cats and dogs over the age of four months on any parcel not zoned RT, A, or RR.

(Code 2007, § 95.006; Ord. No. 08-088, 10-15-2013; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.006), 3-4-2020)

9.24.070 Rabies Shots Required

At the time of application for registration, the applicant shall present to the city a written statement from a licensed veterinarian or other satisfactory evidence that a rabies shot has been administered, within the previous 24 months, to the dog or dogs being registered.

(Code 2007, § 95.007; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.007), 3-4-2020)

9.24.080 Prohibition Of Kennels; Private Kennels

- (a) No commercial kennels may be established in the city unless a special use permit has been issued for the kennel as provided by the city ordinances regulating land use.
- (b) An individual or family unit living together, firm, or corporation may keep a private kennel consisting of a combination of no more than six domestic pets over the age of four months on any parcel five acres or greater in size and located in zoning districts RT, A, or RR.

(Code 2007, § 95.011; Ord. No. 08-088, 10-15-2013; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.011), 3-4-2020)

9.24.090 Prohibition Of Dogs And Cats Running At-Large

It shall be unlawful for any person who owns, harbors or keeps a dog or cat to allow the dog or cat to run at-large in the city.

(Code 2007, § 95.012; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.012), 3-4-2020)

9.24.100 Unreasonable Disturbance Prohibited

- (a) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the city which tends to cause or create a disturbance is prohibited and is a public nuisance. An animal is considered to be in violation of this section when written complaints from two or more adults living in separate residences within audible distance of the noisy animal are filed with the law enforcement or the city within a four-week period. No prosecution shall be commenced, except upon the request of the law enforcement or city, following a written petition signed by two or more adult persons residing at different residences. Failure to correct the disturbance within 24 hours of written notification from law enforcement or other designee of the city shall constitute a violation of this section and will subject the owner or

occupant of the premises to the penalties set forth in LEC 1.04.230. Each day that such nuisance exists constitutes a separate offense.

- (b) The term "unreasonable disturbance" shall include, but is not limited to, the creation of any noise by any animal which can be heard by any person, including a law enforcement officer or animal control officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a 15-minute period of time with a five minute or less lapse of time between each animal noise during the 15-minute period.
- (c) Exemptions. The provisions of this section shall not apply to animal veterinary hospitals or clinics operated for the treatment of animals or to permitted kennels.

(Code 2007, § 95.013; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.013), 3-4-2020)

9.24.110 Dogs Or Cats Which Are Public Nuisances

Every, unsecured female dog or cat in heat, and every dog or cat that runs at-large or causes disturbance, or noise, in violation of the provisions of this chapter is declared a public nuisance.

(Code 2007, § 95.014; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.014), 3-4-2020)

9.24.120 Interference With Enforcement

It shall be unlawful for any unauthorized person to take or attempt to take from any officer any animal taken up by the officer in compliance with this chapter or in any manner to interfere with or hinder the officer in the discharge of official duties under this chapter.

(Code 2007, § 95.015; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.015), 3-4-2020)

9.24.130 Investigation

Any agent of the council may enter the premises where any animal is kept in a reportedly cruel or inhumane manner, after obtaining required warrant or legal consent, and demand to examine the animal and to take possession of the animal when, in the agent's opinion, it requires humane treatment.

(Code 2007, § 95.016; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.016), 3-4-2020)

9.24.140 Quarantine

- (a) Whenever any person owning, possessing, or harboring any dog within the

corporate limits of the city shall learn that the dog has bitten any human being, the person shall immediately impound the dog in a place of confinement where it cannot escape or have access to any human being or other animal. The person shall also immediately notify either the animal control officer or agency, who shall ascertain the identity of the dog and the person owning, possessing, or harboring it. The officer or agency shall immediately direct the person to impound the dog as required. Any dog so impounded shall be kept continuously confined for a period of ten days from the day the dog bit a human being. The person owning, possessing, or harboring the dog shall also notify the state department of health infectious disease epidemiology, prevention and control division.

- (b) Upon learning that a dog has bitten a human being, the city shall immediately notify the animal control officer and inform the animal control officer of the place where the dog is impounded. If the animal is current on its rabies vaccination with proof provided by a rabies certificate, then the animal is safe to be quarantined in the owner's home. If no proof of a current rabies vaccine is able to be provided the animal must be impounded at the current impound facility. When an animal is impounded at home, the animal should be required to be inspected by a licensed veterinarian at the beginning of the rabies quarantine and at the end of the rabies quarantine. The animal control officer will inspect the animal as needed during the ten-day quarantine only when the animal is kept in the home of the owner. For this purpose, the animal control officer shall have access to the premises where the dog is kept at all reasonable hours and may take possession of the dog and confine it in a suitable place at the expense of the owner. In the circumstance that the animal is impounded at the impound facility it is the duty of the licensed veterinarian on staff to inspect the animal during the rabies quarantine.
- (c) The owner or person in possession or harboring the dog shall immediately notify the animal control officer of any evidence of sickness or disease in the dog during its period of confinement. In the case that an animal dies during this period when the animal is kept in the owner's home, the animal is to be brought to the impound facility where it will then be transported to the University of Minnesota for diagnostic testing. If the animal dies while being impounded at the impound facility, then the impound facility will be responsible for diagnostic rabies testing.
- (d) In the case that the owner of the animal that has bitten does not have a current rabies vaccine and it is impounded at the impound facility, and if the owner decides not to reclaim the animal from the impound facility, the impound facility can then humanely euthanize the animal and send it for diagnostic testing without holding the animal for a ten-day quarantine.

(Code 2007, § 95.017; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.017), 3-4-2020)

9.24.150 Muzzling Proclamation

Whenever the prevalence of hydrophobia renders action necessary to protect the public health and safety, the mayor shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on the owner's or keeper's premises unless it is muzzled so that it cannot bite. Any unmuzzled dog running at-large during the time fixed in the proclamation shall be killed by law enforcement without notice to the owner.

(Code 2007, § 95.018; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.018), 3-4-2020)

9.24.160 Required Removal Of Animal Excreta

The owner or person having immediate care, custody or control of any animal shall promptly remove and dispose of, in a sanitary manner, any excreta left or deposited by the animal upon any public or private property. Failure to do so shall be a violation of this section and will subject the owner or occupant of the premises to the penalties set forth in LEC 1.04.230. Each day that such act exists shall constitute a separate offense.

(Code 2007, § 95.019; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.019), 3-4-2020)

9.24.170 Animals On Owner's Property

The accumulation of dog feces or wastes upon private property in the city is declared to be a public nuisance. The owner or occupant of property upon which there exists any accumulation of dog feces or waste shall remove all such waste from his premises and dispose of the wastes in a safe and sanitary manner within 24 hours of written notification from law enforcement or the city to remove the wastes. Failure to do so shall be a violation of this section and will subject the owner or occupant of the premises to the penalties set forth in LEC 1.04.230. Each day that such act exists shall constitute a separate offense.

(Code 2007, § 95.020; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.020), 3-4-2020)

9.24.180 Animal Control Officer

The council may appoint a person, persons, or firm as the council may deem necessary and advisable as animal control officer for the city. The animal control officer shall be charged with the duty of enforcement of this chapter and shall be vested with all the authority conferred by this chapter, including the power to issue a summons requesting a violator to appear in court. The council may provide for compensation for the animal control officer as it may deem reasonable. The animal control officer shall file a monthly report with the council relating to the operation of the animal control officer as it applies to the city.

(Code 2007, § 95.021; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.021), 3-4-

2020)

9.24.190 Animal Control Agency

The city may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impounded animals, and for assisting in the administration of rabies vaccinations programs.

(Code 2007, § 95.022; Ord. No. 08-234, § 1(95.022), 3-4-2020)

9.24.200 Impounding Of Dogs Or Cats

The animal control officer may take up and impound any dogs which are in violation of any provisions of this chapter. To enforce this chapter, the animal control officer is empowered and instructed to go upon any premises to seize for impounding any dog or cat that may lawfully be seized and impounded when such officer is in immediate pursuit of such animals where the officer has reasonable cause to believe there is a dog or cat which has been at-large during the same day, or an unsecured female dog or cat in heat, except upon the premises of the owner of the dog or cat if the owner is present and forbids the same; in that case, or for entry into premises, the officer must obtain required warrant or legal consent to do so. Animals will not be impounded with any facility that sells, trades, or deals animals for licensed educational or scientific institution purposes.

(Code 2007, § 95.023; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.023), 3-4-2020)

9.24.210 Impoundment Charges

- (a) *Redemption.* Any dog or cat may be redeemed from the impound facility by the owner within five days after impoundment by payment of a fee as set forth from time to time by resolution of the council for each day the dog or cat is confined in the pound, as well as the cost of boarding, feeding, and required vet charges. The city may recover, from the owner, impoundment fees charged to it by the impound facility.
- (b) *Additional impoundment charge.* An additional fee, set forth from time to time by resolution of the council, shall be charged for any dog or cat that has been impounded more than once each year.
- (c) *Disposition of unclaimed animals.* If the owner does not pay fee expenses and reclaim the animal within five days of being notified of the impoundment, the animal will be put up for adoption without further notification, at the owner's expense. If the animal is adopted, the expenses and fees may be paid by the new owner through adoption fees.

(Code 2007, § 95.024; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.024), 3-4-

2020)

9.24.220 Disposition Of Unclaimed Dogs Or Cats

Any dog or cat which is not claimed as provided for in LEC 9.24.210 or sold through a standard adoption process, shall be painlessly put to death and the body properly disposed of by the poundkeeper.

(Code 2007, § 95.025; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.025), 3-4-2020)

9.24.230 Proceedings For Destruction Of Certain Dogs

Upon sworn complaint to district court that any one of the following facts exist:

- (a) That any dog at any time has attacked or bitten a person outside the owner's or custodian's premises;
- (b) That any dog is vicious or shows vicious habits, or molests pedestrians;
- (c) That any dog is a public nuisance as defined in M.S.A. § 561.01, as it may be amended from time to time; and/or
- (d) That any dog violates its quarantine contrary to the provisions of the chapter.

The district court shall issue a summons directed to the owner or person having possession of the dog commanding the owner or person in possession to appear before the court and show cause why the dog should not be disposed of as authorized in this Code. The summons shall be returnable not less than two nor more than six days from the date of delivery and shall be served at least two days before the time to appear mentioned in the summons. If, at the hearing, the district court finds that the facts stated in the complaint are true, the judge may order either the owner or custodian to keep the dog confined to a designated place, the owner or custodian to remove the dog from the city, or humanely euthanized by certified veterinary staff. If the owner or custodian disobeys the order, the owner or custodian shall, upon the filing of a complaint and after a hearing and conviction before a district court, be liable to the punishment provided for violation of this chapter. Any animal control officer may, upon disobedience of the order, impound and order the humane euthanasia of any dog described in the order of the district court. The provisions of this section are in addition to and supplemental to other provisions of this Code. Costs of the proceeding specified by this section shall be assessed against the owner or custodian of the dog.

(Code 2007, § 95.026; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.026), 3-4-2020)

9.24.240 Prohibition Of Unsecured Female Dogs Or Cats In Heat

- (a) It shall be unlawful for any person to own, harbor, keep, or have in their possession or on their premises any unsecured female dog or cat in heat.
- (b) Any unsecured female dog or cat in heat shall be deemed to be any female dog or cat which is not confined in a building or secured in a manner that the dog or cat cannot come into contact with another animal except for planned breeding.

(Code 2007, § 95.027; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.027), 3-4-2020)

9.24.250 Liability

The city and/or its animal control agents shall not be liable to any person for the death, destruction, damage, injury or disease caused to any animal that has been impounded pursuant to this chapter.

(Code 2007, § 95.028; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.028), 3-4-2020)

9.24-II DANGEROUS AND POTENTIALLY DANGEROUS DOGS

[9.24.260 Dangerous Dogs--Reporting And Notification](#)

[9.24.270 Dangerous Dogs--Registration Required](#)

[9.24.280 Dangerous Dogs--Requirements](#)

[9.24.290 Potentially Dangerous Dogs--Reporting And Notification](#)

[9.24.300 Potentially Dangerous Dogs--Restrictions](#)

[9.24.310 Confiscation](#)

[9.24.320 Exceptions](#)

9.24.260 Dangerous Dogs--Reporting And Notification

- (a) *Incident report.* The animal control officer shall complete an incident report on any incident listed in the definition for the term "dangerous dog" in LEC 1.08.
- (b) *Notice declaring a dangerous dog.* The animal control officer shall provide the animal owner with a notice to declare a dog dangerous for any incident listed in the definition for the term "dangerous dog" in LEC 1.08. The animal control officer shall provide written notice to the city clerk/administrator that a notice to declare a dog dangerous has been issued to an animal owner.
 - (1) Every reasonable attempt should be made by the animal control officer to deliver the notice declaring a dangerous dog to the animal owner in person.
 - (2) If the notice to declare a dog dangerous cannot be delivered to the animal owner, the animal control officer shall provide the notice to the city clerk/administrator for mailing. The notice declaring a dog dangerous shall be mailed to the animal owner by certified mail.

- (3) Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:
- a. Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
 - b. 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
 - c. Who was committing or attempting to commit a crime.

(Code 2007, § 95.040; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.040), 3-4-2020)

9.24.270 Dangerous Dogs--Registration Required

The owner of a dangerous dog shall obtain a certificate of registration from the county.

- (a) The county will issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:
- (1) A proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property;
 - (2) A surety bond issued by a surety company authorized to conduct business in the state in a form acceptable to the city in the sum of at least \$300,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance 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;
 - (3) An annual fee as provided in the city fee schedule has been paid by the owner to obtain a certificate of registration for a dangerous dog under this section;
 - (4) The owner has microchip identification implanted in the dangerous dog for identification, and the name of the microchip manufacturer and identification number of the microchip has been provided to the county and the city. If the microchip is not implanted by the owner, it may be implanted by the city with the costs borne by the dog's owner.
- (b) *Law enforcement exception.* The provisions of this section do not apply to dangerous dogs used by law enforcement officials for police work.
- (c) *Tag.* A dangerous dog registered under this section must have a standardized,

easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times.

(Code 2007, § 95.041; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.041), 3-4-2020)

9.24.280 Dangerous Dogs--Requirements

- (a) *Annual renewal.* The owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased and pay the annual registration fee. If the dog is removed from the city, it must be registered as a dangerous dog in its new jurisdiction.
- (b) *Transfer of ownership.* The owner of a dangerous dog who transfers ownership of the dangerous dog must notify the new owner that the city has identified the dog as a dangerous dog. The new owner must also notify the city in writing of the transfer in ownership and provide the city with the new owner's name, address, and telephone number.
- (c) *Death of the dog.* An owner of a dangerous dog must notify the city in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer, and must, if requested by the city, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.
- (d) *Muzzling.* The owner of a dangerous dog shall keep the dangerous dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
- (e) *Sterilization.* The owner of the dangerous dog must sterilize the dog at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control officer shall seize the dog and have it sterilized at the owner's expense.
- (f) *Property rental.* A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering into the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.

(Code 2007, § 95.042; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.042), 3-4-2020)

9.24.290 Potentially Dangerous Dogs--Reporting And Notification

(a) *Incident report.* The animal control officer shall complete an incident report on any incident listed in the definition for the term "potentially dangerous dog" in LEC 1.08.

(b) *Notice declaring a potentially dangerous dog.*

(1) The animal control officer shall provide the animal owner with a notice to declare a dog potentially dangerous for any incident listed in the definition for the term "potentially dangerous dog" in LEC 1.08.

(2) The animal control officer shall provide written notice to the city clerk/administrator that a notice to declare a dog potentially dangerous has been issued to an animal owner.

a. Every reasonable attempt should be made by the animal control officer to deliver the notice to declare a potentially dangerous dog to the animal owner in person.

b. If the notice cannot be delivered to the animal owner, the animal control officer shall provide the notice to the city clerk/administrator for mailing. The notice to declare a potentially dangerous dog shall be mailed to the animal owner by certified mail.

(Code 2007, § 95.043; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.043), 3-4-2020)

9.24.300 Potentially Dangerous Dogs--Restrictions

(a) *Registration required.* The owner of a potentially dangerous dog shall obtain a certificate of registration from the county. The county will issue a certificate of registration if the owner presents sufficient evidence that:

(1) A proper enclosure exists for the potentially dangerous dog.

(2) There is posting on the premises with a clearly visible warning sign, including a warning symbol to inform children, that there is a potentially dangerous dog on the property.

(b) *Muzzle.* If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

(Code 2007, § 95.044; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.044), 3-4-

2020)

9.24.310 Confiscation

(a) *Seizure.*

- (1) The animal control officer shall immediately seize any dangerous dog if:
 - a. After 14 days after the owner has notice that the dog is dangerous, the dog is not validly registered under LEC 9.24.270;
 - b. After 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required by LEC 9.24.270(a)(2);
 - c. The dog is not maintained in the proper enclosure; or
 - d. The dog is outside the proper enclosure and not under physical restraint of a responsible person as required under LEC 9.24.280.
- (2) If an owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

(b) *Reclaimed.* A dangerous dog seized under subsection (a) of this section may be reclaimed by the owner of the dog upon payment of impounding and boarding fees, and presenting proof to the animal control officer and the city that the requirements of LEC 9.24.270 and LEC 9.24.280, as they may be amended from time to time, will be met. A dog not reclaimed under this section within seven days may be disposed of as provided in LEC 9.24.230, and the owner is liable to the city for costs incurred in confining and disposing of the dog.

(c) *Subsequent offenses; seizure.*

- (1) If a person has been convicted of a misdemeanor for violating a provision of LEC 9.24.270 and LEC 9.24.280, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized by the animal control officer.
- (2) If the owner is convicted of a crime for which the dog was seized, the court shall order that the dog be destroyed in a proper and humane manner and the owner pay the cost of confining and destroying the animal.
- (3) If the owner is not convicted of the crime for which the dog was seized, the owner may reclaim the dog upon payment to the city of a fee for the care and boarding of the dog.

- (4) If the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under this section, and the owner is liable to the city for the costs incurred in confining, impounding, and disposing of the dog.

(Code 2007, § 95.045; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.045), 3-4-2020)

9.24.320 Exceptions

- (a) This subchapter does not apply to animals which are temporarily brought into the city for the purpose of participating in any circus or show; nor does it apply to any public zoo, or persons keeping animals for a public zoo as volunteers, docents or otherwise; nor to any bona fide research institution, or veterinary hospital, provided protective devices adequate to prevent such animal from escaping or injuring the public are provided.
- (b) In the case of regulated animals, those exemptions listed in M.S.A. § 346.155, subd. 7 shall apply.

(Code 2007, § 95.046; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.046), 3-4-2020)

9.24-III HORSES

[9.24.330 Requirements](#)

9.24.330 Requirements

- (a) No person shall ride, drive, lead, or otherwise allow any horse or pony to directly travel over and in contact with any street or public road in the city which is hard surfaced or which has been ready for hard surfacing to the extent that the base for the hard surface has been applied, except that horses, ponies, and horse drawn vehicles shall be allowed on unpaved shoulders of the street or public road.
- (b) No horse, pony, mule or other beast of burden shall be allowed on any public street, alley, sidewalk or other public right-of-way or upon public property unless the animal is properly attired to prevent animal waste from being deposited upon such public property or the owner of the animal shall be otherwise responsible for cleanup of all animal waste deposited upon public property by the animal.
- (c) The restrictions of this section do not apply to animals that are part of a parade or other legally sanctioned event held in the city; however, all animals participating in such events are still subject to waste and cleanup requirements.

(Code 2007, § 95.060; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.060), 3-4-2020)

9.24-IV DANGEROUS ANIMALS

9.24.340 Keeping Of Animals

9.24.350 Other Animals

9.24.360 Dangerous Animals Prohibited

9.24.370 Exceptions

9.24.340 Keeping Of Animals

The keeping of animals, except for domesticated pets, inside of the dwelling unit shall be prohibited.

(Code 2007, § 95.075; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.075), 3-4-2020)

9.24.350 Other Animals

No person who owns or who has custody of any horse, mule, sheep, goat, swine, fowl, poultry, cattle, monkey, domesticated snake, cat, or any other animal shall permit the same to run at-large in the city. Any animal or fowl found running at-large shall be impounded by the animal control officer who will then proceed, pursuant to LEC 9.24.290 through LEC 9.24.320.

(Code 2007, § 95.076; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.076), 3-4-2020)

9.24.360 Dangerous Animals Prohibited

- (a) No person shall harbor, maintain, or control any dangerous animal within the city.
- (b) A dangerous animal is one which is capable of inflicting severe bodily harm to humans, and shall include, but not be limited to, the following species:

- (1) *Class Mammalia*.

- a. African buffalo (*Syncerus caffer*);
 - b. Hippopotamus (*Hippopotamus amphibious*);
 - c. Wolves, dingoes, jackals, all species except foxes (Family *Canidae*);
 - d. Hyenas, all species except aardwolves (*Proteles cristatus*)(Family *Hyaenidae*);
 - e. Wolverine (*Gulo gulo*);
 - f. Honey badger or ratel (*Mellivora campensis*);

- g. Old World badger (*Meles meles*);
- h. Bears (Family Ursidae);
 - i. Lions, jaguars, leopards, tigers (Genus *Panthera*);
 - j. Clouded leopard (*Neofelis nebulosa*);
 - k. Cheetah (*Acinonyx jubatus*);
 - l. Cougar or mountain lion (*Felis concolor*);
- m. Elephants (Family Elephantidae);
- n. Rhinoceroses (Family Rhinocerotidae);
- o. Gibbons, siamangs (Family Hylobatidae);
- p. Orangutans, chimpanzees, gorillas (Family Pongidae);
- q. Baboons, drills, mandrills (Genus *Papio*);
- r. Macaques (Genus *Macaca*); and
- s. Gelada baboon (*Theropithecus gelada*).

(2) *Class Reptilia.*

- a. Gavials (Family Gavialidae);
- b. Crocodiles (Family Crocodylidae);
- c. Alligators, caimans (Family Alligatoridae);
- d. Cobras, coral snakes (Family Elapidae);
- e. Sea snakes (Family Hydrophidae);
- f. Adders, vipers (Family Viperidae);
- g. Pit vipers (Family Crotalidae); and
- h. All venomous rear-fanged species (Family Colubridae).

(3) *Species of constricting snakes over eight feet in length.*

- a. Boa constrictor (*Boa constrictor*), all subspecies;
- b. Anaconda (*Eunectes murinus*);
- c. Indian python (*Python molurus*);
- d. Reticulate python (*Python reticulatus*); and
- e. Rock python (*Python sebae*).

(4) *Other.*

- a. Gila monsters and beaded lizards (Family Helodermatidae); and
- b. Komodo dragon (*Varanus komodoensis*).

(Code 2007, § 95.077; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.077), 3-4-2020)

9.24.370 Exceptions

- (a) This subchapter does not apply to animals which are temporarily brought into the city for the purpose of participating in any circus or show; nor does it apply to any public zoo, or persons keeping animals for a public zoo as volunteers, docents or otherwise; nor to any bona fide research institution, or veterinary hospital, provided protective devices adequate to prevent such animal from escaping or injuring the public are provided.
- (b) In the case of regulated animals, those exemptions listed in M.S.A. § 346.155, subd. 7 shall apply.

(Code 2007, § 95.078; Ord. No. 08-088, 10-15-2013; Ord. No. 08-234, § 1(95.078), 3-4-2020)

9.24-V LIVESTOCK

[9.24.380 Livestock](#)

9.24.380 Livestock

- (a) *Purpose.* The purpose of this section is to promote and preserve the natural resources within the city by regulating the keeping of livestock. Erosion as a result of overgrazing and leeching of manure into groundwater has adverse and potentially irreversible impacts on water quality and environmentally sensitive lands.
- (b) *Prohibition of manure deposition without safeguards.* No manure or livestock waste shall be deposited, stored, kept, or allowed to remain upon any site without reasonable safeguards adequate to prevent the escape or movement of the manure or wastes or a solution of the manure or wastes from the site which may result in pollution of any public waters or any health hazard.
- (c) *Pollution control agency standard minimum requirement.* All regulations imposed by the state pollution control agency relating to keeping of livestock shall be adhered to and the regulations shall be considered the minimum safeguard necessary to prevent pollution of public water or creation of a health hazard.

- (d) *Inadequate safeguards.* In case the zoning administrator shall find that any manure is stored or kept on any lot or storage site without a safeguard, or that any existing safeguard is inadequate, the zoning administrator may order the owner or other responsible person to immediately remove the manure from the storage site and refrain from further storage or keeping of any manure at the site unless and until an adequate safeguard is provided.
- (e) *Hazards and nuisances.* On parcels of less than 40 acres which are not part of a larger crop-producing commercial agricultural farm, the keeping of horses, cattle, or other grazing animals on a site with less than two acres of existing grazable land per animal is, by this section, declared to be a nuisance. No domestic farm animals, or livestock, other than chickens or bees, shall be allowed on any parcel of less than five acres. No commercial kennels shall be placed on any site of less than ten acres.
- (f) *Grazable acres.* Grazable acreage shall be defined as open, non-treed acreage exclusive of the homesite and yard that is currently providing enough pasture or other agricultural crops capable of supporting summer grazing at a density of one animal unit per two acres. Grazable acreage shall not include non-jurisdictional wetlands or slopes over 12 percent. There is a presumption that 0.5 acres of site are dedicated to the homesite and yard, or considered ungrazable. This presumption is subject to rebuttal if a different calculation can be established by owner and city.
- (g) *Number of permitted animals.* The number of permitted animals shall be determined by the following table:

<i>Type of Animal</i>	<i>Animal Units</i>
One slaughter steer, heifer, or mature dairy cow	1.4
One horse, mule, donkey	1.0
One hog/swine	
One sheep or goat, llama, or alpaca	0.2
One turkey or goose	0.1
One duck or other fowl	0.04
One chicken, five acres or more	0.02

- (1) For all other animals, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.
- (2) The number of animal units allowed per parcel is cumulative. The animal density per parcel shall not exceed one animal unit equivalency per two grazable acres.

(Code 2007, § 95.090; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.090), 3-4-2020)

9.24-VI CHICKENS

9.24.390 Definitions

9.24.400 Purpose

9.24.410 Investigation And Enforcement

9.24.420 Keeping Of Chickens

9.24.430 Permit Required; Term, Consent; Fee

9.24.440 Application

9.24.450 Permit Conditions

9.24.460 Violations

9.24.470 Issuance, Revocation

9.24.390 Definitions

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

Brooding means the period of chicken growth when supplemental heat must be provided, due to the bird's inability to generate enough body heat.

Chicken means a domesticated bird that serves as a source of eggs or meat (*Gallus gallus domesticus*).

Coop means the structure for the keeping or housing of chickens permitted by this subchapter.

Exercise yard means a larger fenced area that provides space for exercise and foraging for the birds when supervised.

Hen means a female chicken.

Officer means any person designated by the city as an enforcement officer.

Rooster means a male chicken.

Run means a fully-enclosed and covered area attached to a coop where the chickens can roam unsupervised.

(Code 2007, § 95.105; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.105), 3-4-2020)

9.24.400 Purpose

It is recognized that the ability to cultivate one's own food is a sustainable activity that can also be a rewarding pastime. Therefore, it is the purpose and intent of this subchapter to permit the keeping and maintenance of hens for egg and meat sources in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community.

(Code 2007, § 95.106; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.106), 3-4-2020)

9.24.410 Investigation And Enforcement

Officers designated by the city shall have authority in the investigation and enforcement of this subchapter, and no person shall interfere with, hinder or molest any such officer in the exercise of such powers. The city shall make investigations as is necessary and may grant, deny, or refuse to renew any application for permit, or terminate an existing permit under this subchapter.

(Code 2007, § 95.107; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.107), 3-4-2020)

9.24.420 Keeping Of Chickens

- (a) *Chickens on less than five acres.* The following table describes the number of chickens allowed on plots of land under five acres:

<i>Lot Size (Acres)</i>	<i>Chickens Allowed</i>
0.00--0.49	0
0.50--0.99	4
1.00--1.49	6
1.50--1.99	8
2.00--2.49	10
2.50--2.99	12
3.00--3.49	14
3.50--3.99	16
4.00--4.49	18
4.50--4.99	22

- (b) *Chickens on five acres or more.* Chickens maintained on parcels of five acres or more are restricted to 0.02 animal units per acre. A permit is not required for

keeping chickens on a parcel size of five acres or more. For reference, see animal unit equivalency chart in LEC 9.24.380.

(Code 2007, § 95.108; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.108), 3-4-2020)

9.24.430 Permit Required; Term, Consent; Fee

- (a) No person shall (without first obtaining a permit in writing from the city clerk) own, keep, harbor, or have custody of any live chicken on a lot less than five acres.
- (b) The first permit is valid for up to two years beginning on the date of issuance and ending on December 31 of the following year. Subsequent permits are valid from January 1 to December 31.
- (c) Prior to issuance of a permit, notices must be mailed to all homes within 150 feet of the applicant's property lines.
- (d) The fee for a permit may be imposed, set, established and fixed by the city council, by ordinance, from time to time.

(Code 2007, § 95.109; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.109), 3-4-2020)

9.24.440 Application

Any person desiring a permit required under the provisions of this subchapter shall make written application to the city clerk upon a form prescribed by and containing such information as required by the city. Among other things, the application shall contain the following information:

- (a) A description of the real property upon which it is desired to keep the chickens.
- (b) The breed and number of chickens to be maintained on the premises.
- (c) A site plan of the property showing the location and size of the proposed chicken coop and run, setbacks from the chicken coop to property lines and surrounding buildings (including houses and buildings on adjacent lots), and the location, type, and height of fencing proposed to contain the chickens in a run or exercise area. Portable coops and cages are allowed, but portable locations must be included with the site plan.
- (d) Statements that the applicant will at all times keep the chickens in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this subchapter and grounds for cancellation of the permit.
- (e) Such other and further information as may be required by the officer.

(Code 2007, § 95.110; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.110), 3-4-2020)

9.24.450 Permit Conditions

Each person keeping chickens within the city shall comply with the following:

- (a) No person may keep a rooster or crowing hen.
- (b) No person may allow chickens to range freely without fencing or without a mobile pen.
- (c) No person may keep chickens inside the house or attached garage.
- (d) Chickens must be provided a secure and well ventilated roofed structure (chicken coop).
- (e) The roofed structure and required fencing for the chickens may only be located in a rear yard and must meet setback and building separations as established in city zoning and building codes, except that the roofed structure and fencing must maintain a 20-foot separation from dwellings on adjacent properties.
- (f) The roofed structure shall be fully enclosed, wind proof, and have sufficient windows for natural light.
- (g) Chickens, coops, and/or runs shall not be kept in such a manner as to constitute a nuisance.
- (h) The chicken coop and run shall be kept in good repair as to be in compliance with the property maintenance regulations elsewhere in this Code.
- (i) All chicken coops must have a minimum size of four square feet per bird and must be at least four feet in height.
- (j) Fenced in chicken runs must have a minimum of ten square feet per bird and must be at least four feet in height.
- (k) All butchering waste shall be disposed of in a sanitary manner.
- (l) Dead chickens must be disposed of according to the state board of animal health rules which require chicken carcasses to be disposed of as soon as possible after death, usually within 48 to 72 hours. Legal forms of chicken carcass disposal include burial, off-site incineration or rendering, or composting.

(Code 2007, § 95.111; Ord. No. 08-100, 2-18-2014; Ord. No. 08-177, 6-20-2017; Ord. No. 08-234, § 1(95.111), 3-4-2020)

9.24.460 Violations

- (a) Any person violating any of the sections of this subchapter shall be deemed

guilty of a misdemeanor and, upon conviction, shall be penalized in accordance with LEC 1.04.230.

- (b) If any person is found guilty by a court for violation of this subchapter, their permit to own, keep, harbor, or have custody of chickens shall be deemed automatically revoked and no new permit may be issued for a period of one year.
- (c) Any person violating any conditions of this permit shall reimburse the city for all costs borne by the city to enforce the conditions of the permit, including, but not limited to, the pickup and impounding of chickens.

(Code 2007, § 95.112; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.112), 3-4-2020)

9.24.470 Issuance, Revocation

- (a) If granted, the permit shall be issued by the city and shall state the conditions, if any, imposed upon the permittee for the keeping of chickens under this permit. The permit shall specify the restrictions, limitations, conditions and prohibitions which the city 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 and safety. Such permit may be modified from time to time or revoked by the city for failure to conform to such restrictions, limitations, or prohibitions. Such modification or revocation shall be effective after ten days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such chickens.
- (b) The city may revoke any permit issued under this subchapter if the person holding the permit refuses or fails to comply with this subchapter, with any regulations promulgated by the city council pursuant to this subchapter, or with any state or local law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within ten days thereafter, humanely dispose of all chickens being owned, kept or harbored by such person, and no part of the permit fee shall be refunded.

(Code 2007, § 95.113; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.113), 3-4-2020)

9.24-VII BEEKEEPING

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9.24.480 Definitions

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

Apiary means the assembly of one or more colonies of bees at a single location.

Beekeeper means a person who owns or has charge of one or more colonies of bees.

Beekeeping equipment means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

Colony means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

Hive means the receptacle inhabited by a colony that is manufactured for that purpose.

Honey bee means all life stages of the common domestic honey bee, *apis mellifera* (African subspecies and Africanized hybrids are not allowed).

Lot means a contiguous parcel of land under common ownership.

(Code 2007, § 95.125; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.125), 3-4-2020)

9.24.490 Purpose

The purpose of this subchapter is to establish certain requirements for beekeeping within the city, to avoid issues that might otherwise be associated with beekeeping in populated areas.

- (a) Compliance with this subchapter shall not be a defense to a proceeding alleging that a given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper's efforts to abate any previous nuisance.
- (b) Compliance with this section shall not be a defense to a proceeding alleging that a given colony violates applicable ordinances regarding public health, but such compliance may be offered as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the state.

(Code 2007, § 95.126; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.126), 3-4-2020)

9.24.500 Standards Of Practice

These standards of practice apply only to lots smaller than five acres.

- (a) Honey bee colonies shall be kept in hives with removable frames, which must be kept in sound and usable conditions.
- (b) Each beekeeper must ensure that a convenient source of water is available within ten feet of each colony at all times that the colonies remain active outside the hive.
- (c) Each beekeeper must ensure that no wax, comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials, once removed from the site, shall be handled and stored in sealed containers, or placed within a building or other vermin-proof container.
- (d) Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms.
- (e) Honey bee colonies may only be kept on lots three-quarters of an acre or larger.
- (f) Each beekeeper is allowed to make in person sales of honey from the beekeeper's residence as long as the following standards are met:
 - (1) The beekeeper must live on the apiary lot;
 - (2) All honey sold in person on the residential premises must be produced by the beekeeper's hives that are located on the subject residential premises;
 - (3) No products may be sold in person at the residence except honey and honey-related products produced from hives on the premises;
 - (4) No outside storage or display of products or merchandise;
 - (5) No traffic that is greater than the residential level of the neighborhood;
 - (6) No separate business entrance;
 - (7) All signage must comply with city sign regulations;
 - (8) Not more than 15 percent of the total gross floor area of the residence or 200 square feet, whichever is less, is devoted to making, storing, and selling honey;
 - (9) No activity or equipment may be used that creates noise, vibration, glare, fumes, odor, or electric or television interference is permitted if it is detectable by adjacent neighbors; and
 - (10) No nonresident employees are permitted.

(Code 2007, § 95.127; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.127), 3-4-2020)

9.24.510 Colony Density

- (a) No person is permitted to keep more than the following numbers of colonies on any lot within the city, based upon the size of the apiary lot:
 - (1) Lots three-quarters of one acre or larger but smaller than 2½ acres: Four colonies;
 - (2) 2 1/2-acre lot or larger but smaller than five acres: Six colonies;
 - (3) Five acres or larger: No restriction.
- (b) Colonies must be set back 25 feet from the property line of an adjacent occupied residential lot.

(Code 2007, § 95.128; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.128), 3-4-2020)

9.24.520 Permit Required

- (a) No beekeeping may occur on properties of less than five acres unless the city issues a permit to the beekeeper on that specific property. The permit will be valid for two growing seasons.
- (b) A beekeeping permit will only be issued if:
 - (1) The permit application documents the satisfaction of all applicable items found in LEC 9.24.480 through LEC 9.24.530; and
 - (2) Notices have been mailed to all homes within 150 feet of the applicant's property lines.
 - a. If there are objections received within ten days of mailing the notices, then the permit application must be considered by the city council.
 - b. If there are no objections received within ten days of mailing the notices, then the permit application will be processed by city staff. It will not be referred to the city council for consideration.
- (c) Permits are non-transferable and do not run with the land.
- (d) A permit constitutes a limited license granted to the beekeeper by the city and in no way creates a vested zoning right.
- (e) By signing the permit, the beekeeper acknowledges that he shall defend and

indemnify the city against any and all claims arising out of keeping the bees on the premises.

- (f) Beekeeping permit fees shall be as established by the city council.
- (g) All standards of practice and colony density standards must be met in order to issue a permit.
- (h) If the standards of practice are not maintained subsequent to issuance of a beekeeping permit, the permit may be revoked by the city.
- (i) Beekeeping training is required for the beekeeper prior to issuance of an initial beekeeping permit by the city. Documentation for such training may be provided in the following ways:
 - (1) Either provide a certificate of completion from a honeybee keeping course from the University of Minnesota or from Century College;
 - (2) Request consideration for having completed a comparable course from another institution or instructor;
 - (3) Request consideration for substituting equivalent experience for the honeybee keeping course; or
 - (4) Provide a letter from a current beekeeping instructor at the University of Minnesota, Century College, or other educational institution offering similar beekeeping courses that states that the permit applicant has gained through other means a substantially similar knowledge base to one that could be gained through appropriate beekeeping courses at the University of Minnesota or Century College.
- (j) Any beekeeper wishing to make in person sales of honey from their home according to the standards of practice section must so indicate on the annual permit.

(Code 2007, § 95.129; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.129), 3-4-2020)

9.24.530 Application

Any person desiring a permit required under the provisions of this subchapter shall make written application to the city clerk upon a form prescribed by and containing such information as required by the city. Among other things, the application shall contain the following information:

- (a) A description of the real property upon which it is desired to keep the bees.
- (b) A site plan of the property showing the location and size of the proposed apiary, the number of hives, setbacks from apiary to property lines and surrounding

buildings (including houses and buildings on adjacent lots), and the location, type, and height of any related flyways.

- (c) Statements that the applicant will at all times keep the bees in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this subchapter and grounds for cancellation of the permit.
- (d) Such other and further information as may be required by the officer.

(Code 2007, § 95.130; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.130), 3-4-2020)

9.24.540 Penalty

Any person who shall violate the provisions of LEC 9.24.480 through LEC 9.24.530 shall be guilty of a misdemeanor and, upon conviction, shall be penalized in accordance with LEC 1.04.230.

(Code 2007, § 95.999; Ord. No. 08-100, 2-18-2014; Ord. No. 08-234, § 1(95.999), 3-4-2020)

CHAPTER 9.28 NUISANCES

9.28-I PUBLIC NUISANCES

9.28-I PUBLIC NUISANCES

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9.28.010 Generally

No person, firm, corporation, or association shall cause, suffer, or permit any nuisance as defined in LEC 9.28.010 et seq., to exist or to be maintained upon property situated in the whole or in part within the city limits.

(Code 1997, § 1335.10; Code 2007, § 96.01)

9.28.020 Public Nuisances Affecting Morals And Decency

The following are declared public nuisances affecting public morals and decency: The looking into or peeping through doors, windows, or openings of private homes by methods of stealth and without proper authority and by surreptitious method, or what is commonly known as "window peeping."

(Code 1997, § 1335.01; Code 2007, § 96.02)

9.28.030 Public Nuisances Affecting Peace And Safety

The following are declared to be nuisances affecting peace and safety:

- (a) *Altering drainage.* Placing entrance culverts, or doing any act which may alter or affect the drainage of public streets or other public property or the surface or grade of public streets or sidewalks, without proper permit.
- (b) *Attractive dangers.* All dangerous, unguarded machinery, equipment, or other property in any public place, or so situated or operated on private property as to attract the public.
- (c) *Dangerous objects.* The placing or throwing on any street, alley, road, highway, sidewalk, or other public or private property of any glass, tacks, nails, bottles, or other nuisances which may injure any person or animal or may cause damage to any pneumatic tire when passing over the same.
- (d) *Environmental nuisances.* No odors, vibration, noise, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other sensory irritations or health hazards caused, suffered, or permitted in excess of the minimum standards as set in LEC 9.28.010 et seq. The minimum standards shall be as follows:
 - (1) *Odors.* Any land use or other activity shall be conducted so as to prevent the emission of odorous or solid matter of the quality and quantity as to be reasonably objectionable at any point beyond the lot line of the site on which the use or activity is located.
 - (2) *Vibration.* The following vibrations are prohibited:
 - a. Any vibration discernible (beyond the property line) to the human sense of feeling for three minutes or more duration in any one hour; and
 - b. Any vibration resulting in any combination of amplitudes and frequencies beyond the safe range of the most current standards of the United States Bureau of Mines on any structure.
 - (3) *Toxic or noxious matter.* Any land use or other activity shall be conducted so as to control the emission of smoke or particulate matter to the degree that it is not detrimental to nor shall it endanger the public health, safety, comfort, or general welfare of the public.

- (4) *Noise*. Any noise caused, suffered, or permitted in violation of the provisions of LEC 9.28.010 et seq.
 - (5) *Lighting and glare*. Any lighting, lighting fixtures, or glare caused, suffered, or permitted in violation of LEC 9.28.010 et seq.
 - (6) *Minimum standards*. Unless otherwise stated in this Code, the minimum standards of the pollution control agency as to noise, air, and water pollution and glare, shall be the minimum standards for the purpose of LEC 9.28.010 et seq.
- (e) *Explosives*. All explosives, inflammable liquids, and other dangerous substances or materials stored or accumulated in any manner or in any amount other than that provided by law.
- (f) *Failure to maintain improvements*. In all zoning districts it is hereby declared necessary that all structures, landscaping, and fences be reasonably maintained so as to avoid health or safety hazards and prevent a degradation in the value of adjacent property. Failure to so maintain the improvements is declared to be a nuisance.
- (g) *Fire hazards*. Any building or structure which, by reason of age, dilapidated condition, defective chimneys or stove pipes, defective electric wiring, defective gas connections, defective heating apparatus, or other defect, is susceptible to fire, and which thus endangers life or limb or other buildings or property within the city; and any accumulations of brush, tree trimming, fallen leaves, parts of dead trees, timber, or other materials or substances on either vacant or improved property, which accumulations are susceptible to fire or capable of spreading fire to adjacent property.
- (h) *Fires*. The setting of fire prohibited under the provisions of this Code.
- (i) *Fireworks*. All use or display of fireworks except as provided by law.
- (j) *Hazardous buildings*. Any building which, because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health of the residents of the city.
- (k) *Junk*.
- (1) The accumulation, storing, or keeping of old machinery, wrecked or inoperable vehicles or household appliances, and unlicensed vehicles and other junk or debris.
 - (2) For the purposes of LEC 9.28.010 et seq., any personal property stored in violation of the provision of LEC 105.04.010 et seq. regulating exterior storage, shall be deemed junk.
- (l) *Littering*. Causing or permitting refuse, rubbish, or garbage to accumulate or

disposing of waste in violation of the provisions of LEC 9.28.050.

- (m) *Low limbs.* All limbs of trees which are less than eight feet above the surface of any public sidewalk or street. (See LEC 1.08).
- (n) *Low wires.* All wires which are strung less than 15 feet above the surface of any public street or alley.
- (o) *Maintenance of boulevard.* Any boulevard which is not maintained as required by LEC 9.16.110.
- (p) *Material from air.* Throwing, dropping, or releasing printed matter, paper, or any other material or objects over the city from an airplane, balloon, or other aircraft, or in a manner as to cause the material to fall or land in the city.
- (q) *Obstruction and excavation.* Obstructions and excavations affecting the ordinary use of the public streets, alleys, sidewalks, or public grounds except under the conditions as are provided by this Code. Any other excavation left unprotected or uncovered indefinitely or allowed to exist in the manner as to attract people.
- (r) *Obstruction of streets.* Any use of property abutting on a public street or sidewalk, or use of a public street or sidewalk which causes large crowds of people to gather obstructing traffic and the free use of public streets or sidewalks.
- (s) *Obstruction of view of traffic.* All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
- (t) *Other acts detrimental to peace and safety.* All other conditions, acts, or things which in the determination of the council are likely to cause injury to the person or property of anyone.
- (u) *Repairing vehicles on streets.* Making repairs to motor vehicles or tires in public streets or alleys, except in the case of emergency repairs when it will not unduly impede or interfere with traffic.
- (v) *Signs over streets.* All hanging signs, awnings, and other similar structures over public streets or sidewalks, or so situated as to endanger public safety not constructed and maintained as provided by law, or without proper permit.
- (w) *Snow on streets and sidewalks.* All snow and ice not removed from public sidewalks 24 hours following the termination of any snow or ice formation. Snow plowed or shoveled into a public street shall also be a nuisance.
- (x) *Unauthorized signs.* Erecting, painting, or placing of unauthorized traffic signs or advertising signs in streets or sidewalks.
- (y) *Unused refrigerators and the like.* Any unused refrigerator or other container, with doors which fasten automatically when closed of sufficient size to retain any

person, and which is exposed and accessible to the public, without removing the doors, lids, hinges, or latches, or providing locks to prevent access by the public.

- (z) *Water from buildings*. The allowing of rain, water, ice, or snow to fall from any building on any public street or sidewalk or to flow across any public sidewalk.

(Code 1997, § 1335.02; Code 2007, § 96.03; Ord. No. 08-216, § 1(96.03), 12-4-2018)

9.28.040 Public Nuisances Affecting Health, Comfort, Or Repose

The following are declared to be public nuisances affecting health, comfort, or repose.

- (a) *Decayed food*. All decayed or unwholesome food offered for sale to the public;
- (b) *Milk from untested cows*. Milk which is produced by cows which have not been tested and found free of tuberculosis within the year previous to the offering of the milk for sale to the public;
- (c) *Diseased animals*. All diseased animals running at-large;
- (d) *Carcasses*. Carcasses of animals not buried or destroyed within 24 hours after death;
- (e) *Garbage cans*. Privy vaults and garbage cans which are not fly-tight;
- (f) *Cesspool contents*. Causing or suffering the effluent from any cesspool, septic tank, drainfield, or human sewage disposal system to discharge upon the surface of the ground, or dumping the contents of it at any place except as authorized by law;
- (g) *Accumulation of refuse and debris*. An accumulation of refuse, rubbish, or garbage or debris of any nature or description;
- (h) *Pollution of wells or public water*. Causing or suffering the pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (i) *Smoke and fumes*. Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities;
- (j) *Medicine samples*. The distribution of samples of medicines or drugs unless the samples are placed in the hands of an adult person by someone properly licensed; and
- (k) *Other acts detrimental to health*. All other acts, omissions of acts, occupations, and uses of property which are determined by the council to be a menace to the health of the citizens or a considerable number of citizens.

(Code 1997, § 1335.03; Code 2007, § 96.04)

9.28.050 Dumping

It shall be unlawful for any person to cause or permit refuse, rubbish, or garbage to be thrown or scattered upon any street, alley, highway, vacant or occupied real estate; or to fail, neglect, or refuse to remove the same from the real estate.

(Code 1997, § 1335.05; Code 2007, § 96.06)

9.28.060 Storing

It shall be unlawful for any owner or occupant of any property in the city to cause or permit refuse, rubbish, or garbage to accumulate or be stored on the property, except in containers as provided by LEC 5.12 relating to solid waste disposal.

(Code 1997, § 1335.06; Code 2007, § 96.07)

9.28.070 Improper Ground Disposal

It shall be unlawful for any person to pump or empty the effluent from any sewage disposal system on to or allow the contents of it to flow on to the surface of any public or private ground, including that of the owners.

(Code 1997, § 1335.07; Code 2007, § 96.08)

9.28.080 Nuisance Disposal

It shall be unlawful to dispose of any liquid or solid wastes when the result of the disposal shall be a nuisance, a source of filth, a cause of obnoxious odors, or a cause of sickness.

(Code 1997, § 1335.08; Code 2007, § 96.09)

9.28.090 Peddling And Soliciting

- (a) *Entering private property.* The practice of going in and upon private residences or residential properties in the city by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise, not having been requested or invited to do so by the owner or owners, occupant or occupants, of the private residences, for the purpose of soliciting orders for sale of goods, wares, and merchandise, or for the purpose of disposing of or peddling the same, is declared to be a nuisance, except as provided in LEC 9.28.010 et seq.
- (b) *Exceptions.* The provisions of LEC 9.28.010 et seq. shall not apply to the sale or soliciting of orders for the same of milk, dairy products, vegetables, poultry, eggs and other farm and garden produce so far as the sale of the commodities named in LEC 9.28.010 et seq. is authorized by law.

- (c) *Charitable organizations exempted.* The provisions of this section shall not apply to any charitable, religious, patriotic, or philanthropic organization, society, association, or corporation desiring to sell or distribute any items of literature or to sell or distribute any goods, wares, and merchandise, for which a fee is charged or solicited from the persons other than members of the organization upon the streets, in office or business buildings, by house to house canvass, or in public places, for a charitable, religious, patriotic, or philanthropic purpose.

(Code 1997, § 1335.09; Code 2007, § 96.10)

9.28.100 Nuisance Abatement Procedure

(a) *Notice.*

- (1) Whenever the city determines that a public nuisance is being maintained or exists on a premises in the city, the building official or his designed representative, after consulting with the city administrator, may abate the nuisance after providing written notice to the affected record property owner.
- (2) The notice shall be given to the affected record property owner by U.S. Mail or personal delivery. Refusal by the recipient to accept the notice shall not constitute a defense that the notice was not received. If the record owner is not able to be found, the city shall attach a copy of the notice or a door hanger with the same information to the main entrance door of the principal structure on the property. The notice shall state the following information:
 - a. The date;
 - b. The address or legal description of the property;
 - c. A description of the nuisance and the section or sections of this Code which was/were violated;
 - d. The steps to be taken in order to abate the nuisance;
 - e. The date by which the nuisance must be abated (grass and weed violations must be abated within five calendar days from the date of the notice);
 - f. That if the nuisance is not abated by the date stated, the city will abate the nuisance and the costs incurred by the city will be charged, and if left unpaid, will be certified to the county auditor for collection with property taxes or specially assessed;
 - g. That the recipient has the right to request a hearing before the city council and the date the hearing request must be made by; and
 - h. A description of the penalties that may apply if the condition is not

corrected.

- (b) *Abatement*. If the nuisance is not abated by the date stated in the notice and no hearing has been requested, the city may abate the nuisance. City staff must keep a record of the total cost of the abatement attributable to the property and report the information to the city administrator.
- (c) *Abatement charges*. When the abatement has been completed and the cost determined, the city shall prepare a bill and mail it to the record owner and thereupon the amount shall be immediately due and payable. If the record owner fails to pay the bill, the total charges may be certified by the city to the county auditor for collection with property taxes as set forth in LEC 1.12.040(c) or specially assessed in accordance with M.S.A. §§ 429.101 and 429.061, whichever may be applicable.
- (d) *Emergency abatement*. Nothing in this subchapter shall prevent the city, without notice or other process, from immediately abating any nuisance condition in an emergency situation which poses an imminent and serious hazard to the public health, safety, or welfare. To proceed with immediate abatement, the city official shall determine that a public nuisance exists or is being maintained on the premises and that delay in abatement will unreasonably endanger the public health, safety, or welfare. If at all possible, the city official shall attempt to notify the record owner of the nature of the nuisance and the abatement prior to the abatement. If notification prior to abatement is not possible, the city official shall notify the record owner as soon as practicable after abatement.

(Ord. No. 08-203, §§ 3, 4(96.11), 3-20-2018)

CHAPTER 9.32 PARKS AND RECREATION

9.32-I PUBLIC PARKS

9.32-II WATER SURFACE USE

9.32-I PUBLIC PARKS

9.32.010 Defacing Or Destroying Property Prohibited

9.32.020 Parking And Driving Of Vehicles

9.32.030 Speed Of Vehicles

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9.32.060 Hours

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9.32.010 Defacing Or Destroying Property Prohibited

No person shall deface, destroy, diminish, or impair the value of public or private

property located within any public park in the city, including buildings, structures, or trees, shrubs, or vegetation located in the city or growing in the city.

(Code 1997, § 1355.02; Code 2007, § 97.01)

9.32.020 Parking And Driving Of Vehicles

- (a) No person shall drive a motorized vehicle in a public park other than on public roads within the park.
- (b) No person shall park a motorized vehicle in a public park in an area not specifically posted with signs permitting parking of motorized vehicles nor in an area posted with signs prohibiting the parking.

(Code 1997, § 1355.03; Code 2007, § 97.02)

9.32.030 Speed Of Vehicles

No person shall drive or operate a motorized vehicle at a speed in excess of 15 miles per hour in any park unless legally signed for a higher speed.

(Code 1997, § 1355.04; Code 2007, § 97.03)

9.32.040 Open Fire Prohibited

No person shall build a fire in any place in any park except in fireplaces or receptacles provided for the building of fires or in an area specifically posted with signs permitting the building of an open fire not in a fireplace or receptacle.

(Code 1997, § 1355.05; Code 2007, § 97.04)

9.32.050 Swimming Or Wading In Certain Areas Prohibited

No person shall wade or swim in an area in which signs have been posted prohibiting swimming or wading. In all areas where swimming and wading is permitted, the council shall have the authority by resolution to prohibit the use of equipment as they deem dangerous to persons engaged in swimming or wading, and to prohibit the activities or conduct as they deem dangerous or hazardous to those engaging in it or to other persons in a park. When a sign has been posted prohibiting the use of any equipment or engagement in any activities or conduct as may be specified in the posted sign, no person shall use the equipment or engage in the activities or conduct.

(Code 1997, § 1355.06; Code 2007, § 97.05)

9.32.060 Hours

Except as hereinafter provided, all public parks shall be closed from one-half hour after

sunset until sunrise the following day.

- (a) Park facilities with operational lighting for ice rinks, tennis courts and ball fields may remain open until 10:00 p.m. as posted in each park.
- (b) A special permit may be issued by the city administrator or the administrator's designee for park usage outside of permitted hours of operation.

(Code 1997, § 1355.07; Code 2007, § 97.06; Ord. No. 97-146, 2-1-2005)

9.32.070 Glass Beverage Containers Prohibited

No person shall bring into any park within the city any glass beverage container.

(Code 1997, § 1355.08; Code 2007, § 97.07)

9.32.080 Liquor And 3.2 Percent Malt Liquor Prohibited

In accordance with LEC 9.28.010, liquor and 3.2 percent malt liquor is prohibited in all parks within the city unless a temporary intoxicating or non-intoxicating liquor license is approved by the city.

(Code 1997, § 1355.09; Code 2007, § 97.08)

9.32-II WATER SURFACE USE

9.32.090 Purpose

9.32.100 Watercraft And Water Surface Use Regulations

9.32.110 Prohibited Uses And Structures

9.32.120 Enforcement

9.32.090 Purpose

The purpose of LEC 9.32.090 et seq., is to establish the rules governing the use of the lake surfaces within the city. It is the intent of LEC 9.32.090 et seq. to promote the health, safety, welfare, and well-being of all, and to define the standards of behavior expected for all water users.

(Code 1997, § 1380.01; Code 2007, § 97.20; Ord. No. 08-074, 9-17-2013)

9.32.100 Watercraft And Water Surface Use Regulations

The following regulations shall apply to the use of watercraft on lakes entirely within the city limits, to the use of a lake entirely within the city limits, and to the use of ice surfaces on lakes entirely within the city limits:

- (a) *Hours of operation.* No person shall operate any motorboat at a speed greater than a slow, no-wake speed as defined by M.S.A. § 86B.005 in the following

manner:

- (1) Lake Elmo: Between sunset and 12:00 noon the following day, seven days a week.
 - (2) Olson Lake, Lake Demontreville and Lake Jane: Between sunset and sunrise, Monday through Friday; and between sunset and 9:00 a.m. on weekends and holidays.
- (b) *Operating regulations.* No person shall operate any watercraft in violation of the provisions of this Code, or in violation of the provisions of M.S.A. ch. 86B or Minnesota Boat and Water Safety Rules (Minn. R. 6110.0100 to 6110.2300), which statutes and rules are hereby adopted and incorporated herein.
- (c) *Operation.* All motorboats, operating in excess of a slow, no-wake speed shall operate in a counter clockwise direction on all city lakes seven days a week.
- (d) *Permanent slow, no-wake areas.* The channels and narrows between Lake Olson and Lake Demontreville are hereby designated as permanent slow, no-wake areas and appropriate signs or buoys meeting the specifications found in Minn. R. 6110.1500 shall be posted.

(Code 1997, § 1380.03; Code 2007, § 97.21; Ord. No. 97-150, 3-1-2005; Ord. No. 08-014, 5-19-2009; Ord. No. 08-050, 7-19-2011; Ord. No. 08-50, 11-1-2011; Ord. No. 2012-58, 7-17-2012; Ord. No. 08-074, 9-17-2013; Ord. No. 08-228, § 1(97.21), 8-18-2020)

9.32.110 Prohibited Uses And Structures

Motorboat races are prohibited. Fishing tournaments, ski jumps, slalom courses, or other competition or exhibition events are allowed only as specifically authorized by state statutes and rules, and the county sheriff's department. The city clerk shall acknowledge by signature all lake activities authorized prior to any authorized event or installation of ski jumps or slalom courses.

(Code 1997, § 1380.06; Code 2007, § 97.23; Ord. No. 2012-58, 7-17-2012; Ord. No. 08-74, 9-17-2013; Ord. No. 08-228, § 1(97.23), 8-18-2020)

9.32.120 Enforcement

- (a) *Local enforcement.* Pursuant to M.S.A. §§ 86B.205 and 459.20, the city assigns by service agreement the enforcement of LEC 9.32.090 through LEC 9.32.120 to the county sheriff's office.
- (b) *Penalties.* Penalties for noncompliance shall be governed by LEC 1.04.230 and prosecuted by the city attorney.
- (c) *Exemptions.* Government agencies engaged in resource management, emergency services or enforcement activities are exempt from the provisions of

this chapter when acting in the performance of their assigned duties.

(Code 2007, § 97.24; Ord. No. 08-74, 9-17-2013; Ord. No. 08-228, § 1(97.24), 8-18-2020)

CHAPTER 9.36 TARGETED RESIDENTIAL PICKETING

9.36.010 Purpose

9.36.020 Definitions

9.36.030 Targeted Residential Picketing Prohibited

9.36.010 Purpose

The city has an interest in safeguarding the right of the residents to enjoy, in their home and dwelling, a feeling of well-being, tranquility, and privacy. The city council finds that targeted residential picketing in front of or about a residential dwelling causes emotional distress to the dwelling occupants or obstructs and interferes with the free use of public rights-of-way. The city council further finds that, without resorting to targeted residential picketing, ample opportunities exist for those otherwise engaged in targeted residential picketing to exercise constitutionally-protected freedom of speech and expression.

(Ord. No. 08-242(1), § 1(98.01), 2-2-2021)

9.36.020 Definitions

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

Targeted residential picketing means standing, marching, patrolling, or other similar activities by one or more persons focused on, in front of or about a particular residential dwelling without the consent of the dwelling's occupants.

(Ord. No. 08-242(1), § 1(98.02), 2-2-2021)

9.36.030 Targeted Residential Picketing Prohibited

No person shall engage in targeted residential picketing within the city.

(Ord. No. 08-242(1), § 1(98.03), 2-2-2021)

TITLE 11 BUSINESS REGULATIONS

CHAPTER 11.04 GENERAL LICENSING PROVISIONS

CHAPTER 11.08 ALCOHOLIC BEVERAGES

CHAPTER 11.12 TARGET RANGES

CHAPTER 11.16 ADULT ESTABLISHMENTS

CHAPTER 11.20 THERAPEUTIC MASSAGE

CHAPTER 11.24 BUILDING CONTRACTORS

CHAPTER 11.04 GENERAL LICENSING PROVISIONS

11.04-I GENERAL PROVISIONS

11.04-II COIN-OPERATED MACHINES

11.04-III BINGO, OTHER LAWFUL GAMBLING, AND VIDEO GAMES OF CHANCE

11.04-IV TEMPORARY SPECIAL EVENTS

11.04-I GENERAL PROVISIONS

11.04.010 Licenses And Permits

11.04.020 Display Of License

11.04.030 Bond

11.04.040 Procedure For Issuance

11.04.050 License Period

11.04.060 Renewal

11.04.070 Duplicates

11.04.080 Revocation

11.04.090 Appeal

11.04.010 Licenses And Permits

- (a) *General rule.* Except as otherwise provided in this Code, all licenses and permits granted by the city shall be governed by the provisions of this chapter, LEC 11.04.010 et seq.
- (b) *Acts prohibited.* No person shall conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for the activity or use.
- (c) *Application.* Every application for a license shall be made to the administrator on a form the administrator provides. It shall be accompanied by payment to the administrator of the prescribed fee. If, after investigation, the administrator is satisfied that all requirements of law and this Code have been met, the administrator shall present the application to the council for action or, if the license or permit does not require council approval, the administrator shall issue the license or permit.

(Code 1997, § 1100.01; Code 2007, § 110.01)

11.04.020 Display Of License

- (a) *Posting of license.* The license or licenses provided for in this chapter shall be posted permanently and conspicuously at the location of the machine on the premises where the device is to be operated or maintained to be operated.
- (b) *Transfer from person to person.* A license shall not be transferable from person to person nor place to place, and shall be usable only at the place and by the person designated in the license.

(Code 1997, § 1100.02; Code 2007, § 110.02)

11.04.030 Bond

Where a bond is required for a license or permit, the bond will be a corporate surety bond executed on a form approved by the city attorney and will be filed with the administrator before the license or permit is issued. The bond will be in the amount and with the penalty provisions as required by this Code.

(Code 1997, § 1100.03; Code 2007, § 110.03)

11.04.040 Procedure For Issuance

If, after investigation, the administrator is satisfied that all requirements of law and this Code have been met, the administrator will present the application and a report of the investigation and findings to the council for action. If the license or permit does not require council approval, the administrator may issue the license or permit.

(Code 1997, § 1100.04; Code 2007, § 110.04)

11.04.050 License Period

All licenses will terminate on December 31 of the year issued, unless otherwise indicated.

(Code 1997, § 1100.05; Code 2007, § 110.05)

11.04.060 Renewal

Applications for renewal of a license will be made to the administrator on forms provided. The renewal application will contain the information required for the original application plus any additional information required by the administrator.

(Code 1997, § 1100.06; Code 2007, § 110.06)

11.04.070 Duplicates

A duplicate license certificate or tag may be issued by the administrator to replace any license certificate or tag previously issued which has been lost, stolen, defaced, or destroyed, without any willful conduct on the part of the licensee, if the licensee files an affidavit with the administrator attesting to the fact and pays to the administrator a fee as set forth in LEC 1.12.030.

(Code 1997, § 1100.07; Code 2007, § 110.07)

11.04.080 Revocation

Any license may be revoked by the council for a violation of the section or chapter under which it is issued. However, the revocation must follow any procedure provided in the section or chapter in question.

(Code 1997, § 1100.08; Code 2007, § 110.08)

11.04.090 Appeal

Any person who has made application which has been denied or not acted upon within 30 days after the application may apply directly to the council for a license. The application to the council shall contain the same information required in the original application, plus any additional information that the council may require or that the applicant may feel is pertinent. The council may grant the license, after hearing, if the requirements of LEC 11.04.010 et seq. are substantially complied with, and in the opinion of the council, granting the license would be in the best interests of the public.

(Code 1997, § 1100.09; Code 2007, § 110.09)

11.04-II COIN-OPERATED MACHINES

[11.04.100 Gambling Devices Not Permitted](#)

[11.04.110 License Required](#)

[11.04.120 Application](#)

[11.04.130 Inspection](#)

[11.04.140 License Fees](#)

[11.04.150 Revocation Of License](#)

11.04.100 Gambling Devices Not Permitted

Nothing in this subchapter shall in any way be construed to authorize, license, or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to the laws of the state.

(Code 1997, § 1105.02; Code 2007, § 110.20)

11.04.110 License Required

Any person, firm, corporation, or association displaying for public patronage or keeping for operation any cigarette vending machine, or coin-operated, automatic machines dispensing food, soft drinks, and other food and materials, as defined in LEC 11.04.100 et seq., outside a building, shall be required to obtain an annual license from the city upon payment of a license fee. Application for the license shall be made to the city administrator upon a form to be supplied by the administrator for that purpose.

(Code 1997, § 1105.03; Code 2007, § 110.21)

11.04.120 Application

(a) The application for the license shall contain the following information:

- (1) Name and address of the applicant and whether applicant is 18 years of age or older;
- (2) Place where machine or device is to be displayed or operated and the business conducted at that place; and
- (3) Description of machine to be covered by the license, mechanical features, name of manufacturer, and serial number.

(b) No license shall be issued to any applicant unless the applicant shall be over 18 years of age.

(Code 1997, § 1105.04; Code 2007, § 110.22)

11.04.130 Inspection

The application for license shall be made out in duplicate, one copy being referred to the code enforcement officer, who shall investigate the location where the machine is proposed to be operated and ascertain if the applicant is a person of good moral character. The enforcement officer shall recommend approval or disapproval of the application to the council.

(Code 1997, § 1105.05; Code 2007, § 110.23)

11.04.140 License Fees

- (a) Every applicant, before being granted a license, shall pay the annual license fee as set by the council for the privilege of operating or maintaining for operation each cigarette vending machine, or coin-operated machine, as defined in LEC 1.08.
- (b) Each license shall expire on December 31 next after its issuance.
- (c) The license may be transferred from one machine or device to another similar machine upon application to the administrator. The application must give a

description and the serial number of the new machine or device. Not more than one machine shall be operated under one license. The applicant or licensee shall be required to secure a license for each and every machine displayed or operated by the applicant or licensee.

(Code 1997, § 1105.06; Code 2007, § 110.24)

11.04.150 Revocation Of License

The license may be revoked by the council after written notice to the licensee. The notice shall specify the ordinance or law violation with which the licensee is charged. Ten-days' notice of the hearing shall be given the licensee. At the hearing, the licensee and licensee's attorney may present and submit evidence in the applicant's or licensee's defense.

(Code 1997, § 1105.07; Code 2007, § 110.25)

11.04-III BINGO, OTHER LAWFUL GAMBLING, AND VIDEO GAMES OF CHANCE

[11.04.160 Lawful Gambling Permitted](#)

[11.04.170 Filing Of Records; Inspections; Access To Records](#)

[11.04.180 Approval Of Premises Permit](#)

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[11.04.200 Liquor Sales/Lawful Gambling At On-Sale Establishments](#)

[11.04.210 Gambling Manager](#)

[11.04.220 Contributions](#)

[11.04.230 Law Enforcement And Administrative Costs](#)

[11.04.240 Trade Area Requirement](#)

[11.04.250 Gambling Exempt From State Licensing Requirements](#)

11.04.160 Lawful Gambling Permitted

Lawful gambling, as defined in M.S.A. § 349.12, subd. 24, as it may be amended from time to time, is permitted in the city if the organization conducting the gambling meets the following criteria:

- (a) It is licensed by the state lawful gambling control board, and is in compliance with M.S.A. § 349, as it may be amended from time to time;
- (b) It is a tax exempt organization pursuant to section 501(c) of the Internal Revenue Code, as it may be amended from time to time;
- (c) It maintains an address within the city;
- (d) It has been in existence as a non-profit corporation or as a section 501(c) tax exempt organization for at least three consecutive years prior to the date the gambling operation begins;

(e) Charitable gambling is limited to fraternal, religious, veterans or other non-profit organizations; and permanent, year-round licensed liquor establishments, fraternal organizations, or churches all which are currently established and operating in the city; and

(f) It complies with all of the provisions of LEC 11.04.160 et seq.

(Code 1997, § 1110.01; Code 2007, § 110.40; Ord. No. 97-106, 4-26-2002)

11.04.170 Filing Of Records; Inspections; Access To Records

(a) *Reports.* Every organization licensed to conduct gambling in the city shall file with the administrator copies of all records and reports required to be filed with the state lawful gambling control board pursuant to M.S.A. ch. 349, as it may be amended from time to time, and the rules and regulations promulgated by M.S.A. ch. 349, as it may be amended from time to time. The records and reports shall be due at the same time they are due to the board.

(b) *Inspection.* Every gambling event in the city conducted by an organization under M.S.A. ch. 349, as it may be amended from time to time, shall be open to inspection by officers of the police department.

(c) *Inspection of records.* Employees of the city's police department may inspect, at any reasonable time, without notice or search warrant, all records of a licensed organization, including gambling accounts and other bank records which are required, by the state lawful gambling control board, to be maintained and preserved.

(Code 1997, § 1110.02; Code 2007, § 110.41; Ord. No. 97-106, 4-26-2002)

11.04.180 Approval Of Premises Permit

(a) *Notification of application.* The state lawful gambling control board shall notify the council in writing in the manner required by law of each pending application for a premises permit at least 60 days before issuing or renewing the license. Each pending application for a premises permit shall be approved or disapproved by resolution of the council.

(b) *Filing.* Any organization applying to the state lawful gambling control board for a premises permit, bingo hall license, or for the renewal of the premises permit to conduct lawful gambling in the city shall, within ten days of making the application, file the following with the administrator:

- (1) A duplicate copy of the state lawful gambling control board application along with all supporting documents submitted to the state lawful gambling control board;

- (2) A copy of the articles of incorporation and bylaws of the organization;
 - (3) The names and addresses of all officers and directors of the organization;
 - (4) A copy of the organization's written procedures and/or criteria for distribution of funds derived from lawful gambling, its standardized application form, and its written fiscal control procedures; and
 - (5) A copy of the Internal Revenue Service's tax exempt letter.
- (c) *Investigation.* Upon receipt of the materials required by subsection (b) of this section and not later than 60 days from receipt of notice from the state lawful gambling control board, city staff shall investigate the applicant and, based upon the investigation, the council shall act on the application.
- (d) *Approval; denial.* The action of the council to approve an application for a premises permit or a bingo hall license within the city shall be by resolution. Failure to receive three affirmative votes of the city council shall constitute a denial of the application.
- (e) *Resolution.* A copy of the council resolution will be sent to the license applicant upon request.
- (f) *Copies.* Copies of any other reports or documents which are required to be subsequently filed by the organization with the state lawful gambling control board, including monthly financial statements, shall be filed with the city within ten days of filing the materials with the state lawful gambling control board.

(Code 1997, § 1110.03; Code 2007, § 110.42; Ord. No. 97-106, 4-26-2002)

11.04.190 Locations

- (a) *Maximum number.* The maximum number of locations where lawful gambling may be conducted within the city is ten.
- (b) *Allotment to single organization.* No single organization may conduct lawful gambling at more than three locations within the city.
- (c) *Compliance.* No location shall be approved for gambling unless it complies with the applicable zoning, building, fire, and health codes of the city.

(Code 1997, § 1110.04; Code 2007, § 110.43; Ord. No. 97-106, 4-26-2002)

11.04.200 Liquor Sales/Lawful Gambling At On-Sale Establishments

- (a) *Prohibition.* No sale, consumption, or possession of liquor, wine, or 3.2 percent malt liquor shall be permitted during gambling conducted by a licensed organization, except as permitted under a valid on-sale liquor, wine, or 3.2

percent malt liquor license, or a bottle club permit; provided further that no sale, consumption, or possession of liquor, wine, or 3.2 percent malt liquor shall be permitted in the room where a bingo session is taking place.

(b) *Regulations.* Lawful gambling at on-sale liquor, wine, and 3.2 percent malt liquor establishments shall be conducted in compliance with the following regulations:

- (1) Only licenses for pull tabs and raffles may be issued except where the licensed gambling organization also holds the on-sale liquor, wine, or 3.2 percent malt liquor licenses for the premises, in which case any lawful gambling license may be issued.
- (2) On-sale establishments shall be limited to one licensed gambling organization at any one time in the licensed premises or any rooms adjoining the premises under the same management. No lease shall be effective between an on-sale establishment and a gambling organization while there is still a lease in effect between the on-sale establishment and another gambling organization.
- (3) Every agreement between a non-profit organization and an on-sale premises for gambling shall be in the form of a written lease. The written lease shall be filed with the administrator along with the gambling license application, and there shall be no unwritten terms or conditions. The lease shall specifically provide that the lessee shall operate only after issuance of a license and shall be subject to the terms of LEC 11.04.160 et seq.
- (4) A copy of any lease agreement between a non-profit organization and an on-sale licensee shall be filed with the administrator with the gambling license application.
- (5) A lease agreement between a non-profit organization and an on-sale establishment shall not provide for rental payments based on a percentage of receipts of profits from lawful gambling. There shall be no other compensation paid to the on-sale establishment, directly or indirectly, other than the rental fee provided in the lease agreement. The maximum rental fee shall be \$600.00 per month or \$24.00 per square foot of the leased premises, whichever is less.
- (6)
 - a. All gambling shall be conducted from a booth or other area properly segregated from the rest of the licensed premises.
 - b. The physical layout of the area set aside for gambling shall be subject to the approval of the city's police department.
- (7) The gambling booth shall be constructed and maintained by the organization licensed to conduct gambling and shall be under the exclusive control of that organization. The organization licensed to

conduct gambling shall prominently display its name and license number at its gambling booth and shall indicate that all profits from gambling are for the benefit of the organization.

- (8) No employees or agents of the on-sale establishment shall handle gambling devices, gambling money, prizes, or gambling records, nor shall they record winners, replays, or free games, nor shall they otherwise conduct or assist the licensed gambling organizations in conducting the gambling operation.
- (9) The gambling booth or area shall be separate from the liquor service bar area. No gambling shall be conducted from the liquor service bar area.
- (10) The organization licensed to conduct gambling shall have exclusive control over all gambling devices, money, and records. Whenever the organization is not present, all gambling devices, money, and records shall be securely locked and shall be inaccessible to employees of the on-sale establishment.
- (11) No gambling employee may use intoxicating beverages while working on the sale of games.
- (12) No gambling funds shall be commingled with funds of the on-sale establishment.
- (13) No food, drink, or entertainment discounts or other promotions shall be offered in conjunction with the sale of gambling devices or chances.
- (14) The on-sale establishment shall allow the organization to conduct gambling at any time during its lawful business hours and shall prohibit gambling at any time other than its lawful business hours.
- (15) The on-sale licensee shall make no agreements with any gambling equipment distributor requiring the use of the distributor's gambling equipment in the establishment.
- (16) Subsections (b)(6) through (11) of this section shall not apply when the licensed gambling organization is also the holder of the on-sale license for the establishment where the gambling is conducted.
- (17) The council may disapprove a premises permit application for an on-sale establishment in which gambling violations have previously occurred.

(Code 1997, § 1110.05; Code 2007, § 110.44; Ord. No. 97-106, 4-26-2002)

11.04.210 Gambling Manager

Before any person may serve as a gambling manager for any organization licensed to conduct gambling in the city, that person must have satisfactorily completed a course of

instruction conducted by the state lawful gambling control board on the duties and responsibilities of the gambling manager.

(Code 1997, § 1110.06; Code 2007, § 110.45; Ord. No. 97-106, 4-26-2002)

11.04.220 Contributions

- (a) *Percentage.* Each organization conducting lawful gambling within the city shall contribute ten percent of its net profits derived from lawful gambling in the city to a fund administered and regulated by the city without cost to the fund for disbursement by the city for lawful purposes as defined by M.S.A. § 349.12, subd. 24, as it may be amended from time to time. The city's use of the funds shall be determined at the time of adoption of the city's annual budget or at the time of amendments to the budget.
- (b) *Reporting requirement.* The ten percent contribution imposed by section shall be reported on a duplicate copy of the gambling tax return filed with the state lawful gambling control board each month. The report shall be an exact duplicate of the report filed with the state lawful gambling control board without deletions or additions, and must contain the signatures of organization officials as required on the report form.
- (c) *Reporting deadline.*
 - (1) The contribution and the report due must be postmarked or, if hand-delivered, received in the office of the administrator on or before the last business day of the month following the month for which the report is made.
 - (2) An incomplete report will not be considered timely filed unless corrected and returned by the due date for filing. Delays in the mailing, mail pick-ups, and postmarking are the responsibility of the organization.
 - (3) The report and contribution shall be delivered to:

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo MN 55042
- (d) *Payment.* Checks shall be made payable to: "City of Lake Elmo."
- (e) *Interest.* There shall be an interest charge of eight percent per annum on the unpaid balance of all overdue contributions owed by an organization under this section.
- (f) *Delinquencies.*
 - (1) The council shall disapprove any pending application for renewal or original issue of a lawful gambling license for any organization which

owes delinquent gambling contributions to the city. Further, the council or administrator may notify the state lawful gambling control board of any organization owing delinquent gambling taxes to the city and may request that the council revoke or suspend the organization's license during the license year. The council shall not issue or renew any on-sale or off-sale alcoholic beverage license, bottle club permit, or food license to any organization which owes delinquent gambling contributions to the city.

(2) The above remedies are not exclusive and shall be in addition to any other powers and remedies provided by law.

(g) *Exemption.* The receipts from lawful gambling of an organization that is exempt from licensing under M.S.A. § 349.166, as it may be amended from time to time, are not subject to the contribution imposed by this section.

(h) *Evaluation of purpose of funds.* City will evaluate yearly the purposes for which the funds will be used.

(Code 1997, § 1110.07; Code 2007, § 110.46; Ord. No. 97-106, 4-26-2002)

11.04.230 Law Enforcement And Administrative Costs

All organizations conducting lawful gambling within the city shall, within 30 days of the end of each month, pay to the city an amount equal to three percent of the gross receipts from lawful gambling conducted in the city in that month, less amounts actually paid for prizes, to cover the city's law enforcement and administrative costs in regulating lawful gambling.

(Code 1997, § 1110.08; Code 2007, § 110.47; Ord. No. 97-106, 4-26-2002)

11.04.240 Trade Area Requirement

Every organization conducting lawful gambling within the jurisdiction of the city shall expend all of its expenditures for lawful purposes on lawful purposes conducted or located within the city's trade area.

(Code 1997, § 1110.09; Code 2007, § 110.48; Ord. No. 97-106, 4-26-2002)

11.04.250 Gambling Exempt From State Licensing Requirements

(a) Organizations which conduct lawful gambling which are exempt from state gambling licensing requirements (pursuant to M.S.A. § 349.166, as it may be amended from time to time) may conduct gambling within the city upon receipt of a permit from the city; except that a permit is not required if the organization awards \$5,000.00 or less in prizes in a calendar year.

- (b) (1) *Application.* An application for the permit shall be made at least 30 days prior to the date the gambling shall be conducted. The application shall contain the following:
- a. The name of the organization;
 - b. The address of the organization;
 - c. The place where the gambling will occur; and
 - d. The total prizes to be awarded.
- (2) *Permit fee.* The organization shall pay a permit fee as established in the city fee schedule for each day the gambling is conducted.
- (3) *Permitted classes of gambling.* Permits for all classes of gambling activities may be approved.
- (4) *On-sale premises.* Lawful gambling by an organization exempt from licensing may be conducted on the premises of a licensed on-sale liquor, wine, or beer establishment or a bottle club, subject to the restrictions in LEC 11.04.160 et seq. relating to the conduct of gambling in on-sale establishments and bottle clubs.
- (5) *Consumption; possession; 3.2 percent malt liquor.*
- a. Except as provided in this subsection (b)(5), the sale, consumption, and possession of intoxicating liquor at a gambling event by an exempt organization shall be prohibited.
 - b. However, 3.2 percent malt liquor may be served and consumed, but only under a valid temporary on-sale beer license.
- (6) *Compliance; notice.* The organization shall comply with all statutory requirements for an exempt organization, including the 30-day notice requirement to the city, pursuant to M.S.A. § 349.166, subd. 2(4), as it may be amended from time to time.
- (7) *Filing of report.* Within 30 days after filing any reports with the state lawful gambling control board, the organization shall file a copy of the reports with the city.
- (8) *Law enforcement and administrative costs.* The provisions relating to law enforcement and administrative costs set forth in LEC 11.04.230 shall not apply to gambling permitted pursuant to this section. All other provisions of LEC 11.04.160 et seq. apply to the organizations.

(Code 1997, § 1110.10; Code 2007, § 110.49; Ord. No. 97-106, 4-26-2002)

11.04-IV TEMPORARY SPECIAL EVENTS

11.04.260 Special Event Permits

11.04.260 Special Event Permits

- (a) *Purpose and intent.* The purpose of this subchapter is to promote the orderly, compatible and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, peace and tranquility of residential neighborhoods and safety services.
- (b) *Special events.* A special event shall include the following:
- (1) Any temporary, privately-sponsored event, typically conducted outdoors, open to the general public, held on public or privately-owned property that will be attended by over 100 people within a 24-hour period where such event would not otherwise be permitted under the city's zoning regulations.
 - (2) An agricultural sales business as defined in LEC 1.08 that is conducted for less than three months in any calendar year. A special event permit for an agricultural sales business may be issued once per year and for no more than two consecutive years.
- (c) *Exceptions.* The term "special event" shall not apply to the following:
- (1) Any permanent place of worship, stadium, athletic field, arena, theatre, auditorium, or fairs conducted pursuant to M.S.A. ch. 38.
 - (2) Special events or activities permitted or permitted by other state laws or regulations of the city, including publicly-sponsored activities in the local park system and any other lawfully established event for which the city council has expressly granted approval prior to adoption of this subchapter, unless said event is expanded or enlarged, in which case a special event permit will be required.
 - (3) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings and the like.
 - (4) Garage sales.
 - (5) National night-out or night-to-unite established through the city.
- (d) *Permit required.* No person on or after the effective date of this subchapter shall conduct or allow to be conducted any special event as defined in this subchapter without first obtaining a special event permit.
- (e) *Requirements for issuance of a permit.*
- (1) The following standards shall apply to all special events:

- a. *Maximum number of people.* The permittee shall not sell tickets to nor permit attendance at the permit location of more than the maximum number of people stated in the special event permit.
- b. *Sound equipment.* Sound producing equipment, including, but not limited to, public address systems, radios, amplifiers, musical instruments and other recording and playback devices, shall not be operated on the premises of the special event so as to be unreasonably loud or be a nuisance or disturbance to the peace and tranquility of the citizens of the city.
- c. *Sanitary facilities.* In accordance with state board of health regulations and standards and local specifications, adequate sanitary facilities must be provided which are sufficient to accommodate the projected number of persons expected to attend the event.
- d. *Security.* The permittee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons in attendance at the special event and for the preservation of order and protection of property in and around the event site. No permit shall be issued unless the county sheriff's department is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the event.
- e. *Food service.* The operator of the special event shall be responsible for securing any permits, if necessary, from the county health department for any food services that are made available on the premises.
- f. *Fire protection.* The permittee shall, at his own expense, take adequate steps to ensure fire protection as determined by the city fire chief.
- g. *Duration of special event.* The permittee shall operate the special event only on those days and during the hours specified on the permit. The maximum duration of a special event shall be three consecutive days in each calendar year. Events that occur for a longer duration or more than once each year shall only be allowed if permitted under the zoning requirements for the site.
- h. *Cleanup plan.* The special event applicant is responsible for clean up of the site upon completion of the special event and shall specify the amount of time anticipated to restore the site to its pre-event condition as part of an application. Any clean up or restoration work required by the city may be charged to the

applicant. Any city service that requires overtime will be at the expense of the applicant.

- i. *Waiver.* The city council may grant a waiver from the requirements of this subchapter in any particular case where the applicant can show that strict compliance with this subchapter would cause exceptional and undue hardship by reason of the nature of the special event or by reason of the fact that the circumstances make the requirement of this subchapter unnecessary. Such waiver must be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of these regulations.
- j. *Insurance.* Before the issuance of a permit, the permittee shall obtain public liability insurance and property damage insurance with limits determined by the city council if reasonably determined necessary. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the city clerk in writing at least ten days before the expiration or cancellation of said insurance.
- k. *Miscellaneous.* Prior to the issuance of a permit, the city council may impose any other conditions reasonably calculated to protect the health, safety and welfare of persons, attendants or of the citizens of the city, including, but not limited to, restrictions on parking and vehicle access, lighting, litter and noise.

(2) In addition to the requirements listed above, the following shall also apply to a special event permit for an agricultural sales business: All performance standards as specified in the zoning code. The city council may exempt the applicant from any of these standards that are deemed unnecessary given the nature or duration of the event.

- (f) *Application procedures.* A written application for a special event permit shall be filed on forms provided by the city with the city administrator not less than 30 days before the date proposed for holding the special event. The written application shall be signed by the person, persons, or parties conducting the event and the property owner, if different, and shall be accompanied by the fee payable hereunder. Upon submission of an application for a special event permit, city staff will review the request and advise the applicant of the need for additional information, if any.
- (g) *Fees.* The fee for a special event permit shall be as established by the city council.
- (h) *Granting a permit.* The city council, in its sole discretion, reserves the right to review and determine whether a request for a special event and/or street closing

is acceptable. In the event the city council determines the activity does not meet these criteria, such applications shall be denied.

- (i) *Denial of permit.* The city council shall have the right to deny the permit if, in the judgment of the city council, the granting of a permit would adversely affect the safety, health and welfare of the citizens of the city or if other criteria herein are not met. The applicant shall be notified of such denial and may appear before the city council to appeal such denial.
- (j) *Transferability.* No permit granted under this subchapter shall be transferred to any other person or place without consent of the city council, upon written application made therefor.
- (k) *Enforcement and penalties.*
 - (1) The city administrator, and other such officers, employees, or agents as the city council or city administrator may designate, shall enforce the provisions of this subchapter in accordance with LEC 1.04.230.
 - (2) The holding of a special event in violation of any provision of this subchapter shall be deemed a public nuisance and may be abated as such.
 - (3) Any person violating any provision of this subchapter is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in state statutes.
- (l) *Revocation of permit.* The permit for a special event may be revoked by the city council at any time if any of the conditions necessary for the issuing of or contained in the permit are not complied with or if any of the provisions of this subchapter are violated.

(Code 2007, § 110.70; Ord. 08-054, 11-1-2011; Ord. No. 08-055, 11-15-2011)

CHAPTER 11.08 ALCOHOLIC BEVERAGES

11.08-I GENERAL PROVISIONS

11.08-II INTOXICATING LIQUOR

11.08-III 3.2 PERCENT MALT LIQUOR

11.08-I GENERAL PROVISIONS

11.08.010 Open Bottles

11.08.010 Open Bottles

- (a) *Open bottle prohibited.*
 - (1) *Possession in public place prohibited.* It shall be unlawful to be in the possession of an open bottle of intoxicating liquor in a public place.

- (2) *Consumption.* It shall be unlawful to consume intoxicating liquor in any motorized vehicle or any passenger-carrying appurtenance, including, but not limited to, trailers or campers attached to pickup trucks or any other motorized vehicle, while the vehicle is parked in a public place.

(b) *Special permit.*

- (1) *Intent.* The council may issue a special permit not to exceed 90 days waiving any provisions of this section when it deems the waivers to be consistent with public welfare and safety.
- (2) *Conditions of permit.* The permit must describe with specificity the conditions under which the permit is issued, including:
- a. Public place which is covered by the permit;
 - b. The person to whom the permit is issued; and/or
 - c. Any other conditions or restrictions that the council deems necessary to adequately provide for the public welfare and safety, including restrictions as to the type of intoxicating liquor which may be consumed and the hours in which the liquor may be served.
- (3) *Violation.* Any violation of the conditions imposed on the permit under subsection (b)(2) of this section shall result in an automatic revocation of the permit.

(Code 1997, §§ 1210.01--1210.03; Code 2007, § 111.01)

11.08-II INTOXICATING LIQUOR

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11.08.020 License Required

Except as provided in LEC 11.08.020 et seq., no persons shall sell intoxicating liquor without first obtaining a license from the city.

(Code 1997, § 1200.02; Code 2007, § 111.16)

11.08.030 Kinds Of Licenses

Intoxicating liquor licenses shall be of six kinds.

- (a) *On-sale licenses*. On-sale licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit on-sale of intoxicating liquor only.
- (b) *On-sale wine licenses*. On-sale wine licenses shall be issued only to restaurants having facilities for seating at least 25 guests at one time and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.
- (c) *Temporary on-sale licenses*. Temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other non-profit organizations in existence for at least three years and shall authorize the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee and subject to the restrictions imposed by M.S.A. ch. 340A, as it may be amended from time to time. No more than three temporary on-sale licenses may be issued to any one organization or for any one location within a 12-month period.
- (d) *Off-sale licenses*. Off-sale licenses shall be issued only to exclusive liquor stores and shall permit off-sale of intoxicating liquor only.
- (e) *Special club licenses*. Special club licenses shall be issued to incorporated clubs or congressional chartered veterans organizations which have been in existence for at least three years.
- (f) *Special licenses for Sunday sales*. Sunday on-sale licenses shall be issued only to a hotel, restaurant, or club which has facilities for serving at least 30 guests at one time and which has a regular on-sale license.

(Code 1997, § 1200.03; Code 2007, § 111.17)

11.08.040 Application For License

- (a) *Form*. Every application for a license to sell liquor shall include applicant's name, age, representations as to character (with the references as the council may require), citizenship, the type of license applied for, the business in connection

with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long applicant has been in that business at that place, and the other information as the council may require from time to time. Every application shall also include a copy of each summons received by the applicant under M.S.A. § 340A.802, as it may be amended from time to time, during the preceding year. The application shall be in the form prescribed by the commissioner and shall be verified and filed with the administrator. No person shall make a false statement in an application.

- (b) *Bond.* Each application for an on-sale, on-sale wine, or off-sale license shall be accompanied by a surety bond in the amount of \$1,000.00 or, in lieu of the surety bond, cash or United States government bonds of equivalent value.
- (c) *Financial responsibility.* No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by M.S.A. § 340A.801, as it may be amended from time to time. The proof shall be filed with the commissioner. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S.A. § 340A.801, as it may be amended from time to time.
- (d) *Approval of security.* Security bonds or evidence of financial responsibility shall be approved as to form by the city attorney. Operation of a licensed business without having on file with the city at all times evidence of required bonds or insurance coverage shall be cause for revocation of the liquor license.

(Code 1997, § 1200.04; Code 2007, § 111.18)

11.08.050 License Fees

- (a) *Fees.* The annual fee for liquor licenses shall be set from time to time by ordinance of the council.
- (b) *Waiver of fee.* The council can, at its discretion, waive the fee for a temporary on-sale license.
- (c) *Payment.* Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the license fee and the fixed investigation fee required pursuant to LEC 11.08.060(a). All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee.
- (d) *Term; pro rata fee.* Each license shall be issued for a period of one year except that, if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on December 31.
- (e) *Refund.* No refund of any license fee shall be made except as provided in LEC 11.08.020 et seq.

(Code 1997, § 1200.05; Code 2007, § 111.19)

11.08.060 Granting Of License

(a) Preliminary investigation.

- (1) On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant shall pay with the application an investigation fee as set forth from time to time by resolution of the council.
- (2) The city shall construct a preliminary background and financial investigation of the applicant.
- (3) The application in this case shall be made on a form prescribed by the commissioner and with the additional information as the council may require.
- (4) If the council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine.
- (5) In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the commissioner for the investigation.
- (6) No license shall be issued, transferred, or renewed if the results show, to the satisfaction of the council, that issuance would not be in the public interest.
- (7) If the investigation is required beyond state boundaries, the applicant shall pay for the actual cost of the investigation but in no event an amount in excess of \$10,000.00.
- (8) The estimated amount of the investigation shall be paid at the time of application.
- (9) The remaining amount due for investigative costs shall be paid prior to final review of the license application by the council.
- (10) The full amount of the license investigation fee is payable regardless of whether the liquor license is granted.

(b) Hearing and issuance. The council shall investigate all facts set out in the application and not investigated in the preliminary background investigation. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No license shall become effective until it, together

with the security furnished by the applicant, has been approved by the commissioner.

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

(Code 1997, § 1200.06; Code 2007, § 111.20)

11.08.070 Persons Ineligible For License

No license shall be granted to any person made ineligible for the license by state law.

(Code 1997, § 1200.07; Code 2007, § 111.21)

11.08.080 Places Ineligible For License

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

(Code 1997, § 1200.08; Code 2007, § 111.22; Ord. No. 08-081, 6-4-2013)

11.08.090 Conditions Of License

- (a) *General.* Every license is subject to the conditions in this section and all other provisions of LEC 11.08.020 et seq. and of any other applicable ordinance, state law, or regulation.
- (b) *Insurance.* Every licensee shall comply with the financial responsibility requirements of state law and of LEC 11.08.020 et seq. as a continuing condition of any license granted pursuant to LEC 11.08.020 et seq.
- (c) *Licensee responsibility.* Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcohol beverages by any employee authorized to sell the beverages in the establishment is the act of the licensee for the purposes of license suspension or revocation.
- (d) *Inspections.* Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.
- (e) *Display during prohibited hours.* No on-sale establishment shall display liquor to

the public during hours when the sale of liquor is prohibited.

(Code 1997, § 1200.09; Code 2007, § 111.23)

11.08.100 Restrictions On Purchasing/Consumption

- (a) *Liquor in unlicensed places.* No person shall purchase liquor for consumption in any public place or place of business unless it has a license to sell liquor on-sale or a permit from the commissioner, and no person shall consume liquor in that place.
- (b) *Consumption in public places.* No person shall consume liquor in a public park, or other public place, except for those temporary licenses granted pursuant to LEC 11.08.030(c).

(Code 1997, § 1200.10; Code 2007, § 111.24)

11.08.110 Suspension And Revocation

- (a) The council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000.00 for each violation, upon the finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcohol beverages. Except in case of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S.A. §§ 14.57 to 14.69 of the Administrative Procedure Act, as it may be amended from time to time.
- (b) Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to LEC 11.08.020 et seq. without further action of the council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing and, if the request is made in writing to the administrator, a hearing shall be granted within ten days or the longer period as may be requested. Any suspension under this section shall continue until the council determines that the financial responsibility requirements of LEC 11.08.020 et seq. have again been met.

(Code 1997, § 1200.11; Code 2007, § 111.25)

11.08.120 Hours Of Sale

(a) *Intoxicating liquor on-sale.* No sale of intoxicating liquor for consumption on the licensed premises may be made by an on-sale licensee:

- (1) Between 1:00 a.m. and 8:00 a.m. Monday through Saturday;
- (2) After 1:00 a.m. on Sundays, except that a restaurant, club, or hotel with a seating capacity for at least 30 persons which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. Sunday and 1:00 a.m. on Monday; and/or
- (3) Between 8:00 p.m. on December 24 and 8:00 a.m. on December 25, except that a restaurant, club, or hotel with a seating capacity for at least 30 persons which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 midnight on Sundays and 1:00 a.m. on Mondays.

(b) *Intoxicating liquor off-sale.* No sale of intoxicating liquor may be made by an off-sale licensee:

- (1) On Sundays;
- (2) Before 8:00 a.m. on Monday through Saturday;
- (3) After 10:00 p.m. on Monday through Saturday;
- (4) On Thanksgiving Day;
- (5) On Christmas Day, December 25; or
- (6) After 8:00 p.m. on Christmas Eve, December 24.

(Code 1997, § 1200.12; Code 2007, § 111.26; Ord. No. 9768, 1-2-2001)

11.08.130 Restrictions

- (a) All sales shall be made in full view of the public.
- (b) It shall be unlawful for any person to mix or prepare liquor for consumption or to consume liquor or to permit the consumption of the liquor in any public place or place of business except on premises for which an on-sale license has been issued.

(Code 1997, § 1200.13; Code 2007, § 111.27)

11.08.140 Revocation

- (a) Any license granted under LEC 11.08.020 et seq. may be revoked by the council.

- (b) A hearing shall first be held by the council and the revocation then made for cause.
- (c) Any violation of any provision or condition of LEC 11.08.020 et seq. or the state licensing law or any falsification of any statement in the application shall be grounds for revocation.
- (d) Any license shall be revoked automatically upon the conviction of the licensee of a felony.
- (e) No portion of the license fee paid to the administrator shall be returned upon revocation.

(Code 1997, § 1200.14; Code 2007, § 111.28)

11.08.150 Administrative Fines, Suspension, Revocation For Sale Of Intoxicating Liquor To Minors

(a) *Administrative fines, suspension, revocation.*

- (1)
 - a. Any violation of the city's regulations relating to the issuance of an intoxicating liquor license or any conditions/restrictions attached to the issuance of the license shall be cause for the imposition of an administrative fine, the suspension of the license, and/or the revocation of the license.
 - b. A licensee whose license has been revoked shall not be eligible for another intoxicating liquor license for one year from the date of license revocation.
- (2) No suspension or revocation shall take effect until the licensee has been given an opportunity for a hearing pursuant to M.S.A. §§ 14.57 through 14.69, as they may be amended from time to time, provided that the city shall not be required to conduct the hearing before an employee of the office of administrative hearings.
- (3) If the violation relates to the sale of intoxicating liquor to minors by licensee's employees, the following administrative fines, suspension, or revocations may be imposed:
 - a. After the first violation, if an affidavit of training is on file with the city for the employee who made the illegal sale, the city administrator shall provide licensee with a notice that a sale to a minor has been documented and shall include a copy of the city's administrative fine regulations with the city; or, if an affidavit of training is not on file with the city for the employee who made the illegal sale, the city administrator shall notify licensee that a sale

to a minor has been documented, shall include a copy of the city's administrative fine regulations with the notice, and shall impose an administrative fine of \$200.00.

- b. The second violation within 12 months shall require the licensee to pay an administrative fine of \$200.00 if an affidavit of training is on file with the city for the employee who made the illegal sale; or shall require the licensee to pay an administrative fine of \$400.00 if no affidavit of training is on file with the city for the employee who made the illegal sale.
- c. The third violation within 24 months shall require the licensee to pay an administrative fine of \$400.00 and shall result in a license suspension of seven business days if an affidavit of training is on file with the city for the employee who made the illegal sale; or shall require licensee to pay an administrative fine of \$800.00 and shall result in a license suspension for seven business days if an affidavit of training is not on file with the city for the employee who made the illegal sale.
- d. The fourth violation within 24 months shall result in license revocation.

(b) *Compliance checks.* The city or its law enforcement agencies shall conduct compliance checks at least once each calendar year at each location where an intoxicating liquor license has been issued to test compliance with the provisions of the city's regulations. Compliance checks shall utilize minors over the age of 18, but under the age of 21, who attempt to purchase intoxicating liquor under the direct supervision of a law enforcement officer.

(Code 2007, § 111.29; Ord. No. 97-102)

11.08-III 3.2 PERCENT MALT LIQUOR

[11.08.160 License Required](#)

[11.08.170 License Application Procedure](#)

[11.08.180 License Fees; Generally](#)

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[11.08.260 Conditions Of License](#)

[11.08.270 Hours Of Sale](#)

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11.08.290 Administrative Fines, Suspension, Revocation For Sale Of 3.2 Percent Malt Liquor To Minors

11.08.160 License Required

- (a) *Types of licenses.* Except as provided in LEC 11.08.160 et seq., no person shall sell 3.2 percent malt liquor without first obtaining a license from the city. Licenses shall be of three kinds:
- (1) On-sale;
 - (2) Off-sale; and
 - (3) Temporary on-sale.
- (b) *On-sale licenses.* On-sale licenses shall be granted only to bona fide clubs, drug stores, restaurants, hotels, and establishments for the sale of 3.2 percent malt liquor, cigars, cigarettes, all forms of tobacco, beverages, and soft drinks at retail. On-sale licenses shall permit the sale of 3.2 percent malt liquor for consumption on the premises only.
- (c) *Off-sale licenses.* Off-sale licenses shall permit the sale of 3.2 percent malt liquor at retail, in the original package, for consumption off the premises only.
- (d) *Temporary on-sale licenses.* A club or charitable, religious, or non-profit organization may be issued a temporary on-sale license for the sale of 3.2 percent malt liquor on or off school grounds, and in and out of school houses and school buildings and in or outside of public parks. No more than three temporary on-sale licenses may be issued to any one organization or for one location, within a 12-month period.

(Code 1997, § 1205.02; Code 2007, § 111.41)

11.08.170 License Application Procedure

- (a) *General.*
- (1) Every application for a license to sell 3.2 percent malt liquor shall be made on a form supplied by the city and shall state the name of the applicant, applicant's age, representations as to applicant's character with the references as may be required, applicant's citizenship, whether the application is for on-sale or off-sale, the business in connection with which the proposed license will operate and its location, whether the applicant is the owner and operator of the business, how long applicant has been in that business at that place, the amount and nature of any dancing, singing, vaudeville performance, or other entertainment to be provided for guests, and the other information as the council may require

from time to time.

(2) Except for resorts, a scale drawing of the floor plan of the proposed licensed premises shall be attached to each application.

(3) It shall be unlawful to make any false statement in the application.

Applications shall be filed with the city administrator.

(b) *Corporations.* In addition to the previous provisions, an application for an on-sale or off-sale license on behalf of a corporation shall include complete information as to the names and addresses of the officers of the corporation and other information required by the council. Corporate officers shall notify the council whenever any change is made in the officers of the corporation.

(Code 1997, § 1205.03; Code 2007, § 111.42)

11.08.180 License Fees; Generally

(a) Each application for a license shall be accompanied by a receipt from the administrator for payment in full of the required fee for the license.

(b) All fees shall be paid into the general fund of the municipality.

(c) Fees shall be set by ordinance of the council.

(Code 1997, § 1205.04; Code 2007, § 111.43)

11.08.190 Fee Refund

No part of the fee paid for any license issued under this Code shall be refunded except:

(a) *Rejected application.* Upon the rejection of an application for a license, the administrator shall refund the amount paid; and

(b) *Death of licensee.* Upon the death of a licensee, provided that the application for refund is made to the council within 90 days of the date of licensee's death, there shall be refunded a pro rata portion of the fee computed on a monthly basis for any unexpired period of the license that exceeds one month.

(Code 1997, § 1205.05; Code 2007, § 111.44)

11.08.200 Granting Of Licenses

The council shall investigate all facts set out in the application. Opportunity shall be given for any person to be heard for or against the granting of the license. After the investigation and hearing, the council may grant or refuse the application in its discretion.

(Code 1997, § 1205.06; Code 2007, § 111.45)

11.08.210 Duration Of License

All licenses issued under this chapter shall expire on January 1 of each year. Each license shall be issued for a period of one year, except that, if a portion of the licensed year has elapsed when the application is made, a license shall be issued for the remainder of the year. In case of death of any licensee of any off-sale or on-sale non-intoxicating malt beverages, licensee's personal representative is, by LEC 11.08.160 et seq., authorized to continue operating the business for not more than 90 days after the death of the licensee.

(Code 1997, § 1205.07; Code 2007, § 111.46)

11.08.220 Transfer Of Licenses

- (a) *Generally.* Each license shall be issued only to the applicant and only for the premises described in the application. No license may be transferred to another person or place without the approval of the council.
- (b) *Corporations.* The transfer of control in any corporation holding an on-sale or off-sale license shall be deemed a transfer within the meaning of this subchapter, and no transfer of stock shall be made without the consent of the council.

(Code 1997, § 1205.08; Code 2007, § 111.47)

11.08.230 License Renewals

Applications for renewal of an existing license shall be filed with the administrator on or before December 1.

(Code 1997, § 1205.09; Code 2007, § 111.48)

11.08.240 Revocation Or Suspension Of License

- (a) *Generally.* The council may revoke a 3.2 percent malt liquor license for violation of any statute or ordinance relating to the sale of 3.2 percent malt liquor. The following shall be deemed sufficient cause for revocation:
 - (1) If the officers of a corporation licensee fail to notify the council of a proposed sale or transfer of control or of a change in the corporate officers;
 - (2) If any 3.2 percent malt liquor licensee is the owner and holder of a federal retail liquor dealer's special tax stamp and does not have a license to sell intoxicating liquors pursuant to the laws of the state for the place, the licensee's 3.2 percent malt liquor license shall be revoked by the council

without notice and without a hearing on the revocation; and/or

- (3) If any dancing, singing, vaudeville performance or other entertainment is provided for guests other than that stated in the application for the license.

(b) *Hearing.* Licensee shall be granted a hearing upon at least ten days' notice before revocation or suspension is ordered by the council, where mandatory revocation is not provided by law.

(c) *Length of suspension.* No suspension shall exceed 60 days.

(Code 1997, § 1205.10; Code 2007, § 111.49)

11.08.250 Ineligible Persons And Places

(a) *Persons.* No license shall be granted to a person who is:

- (1) Not of good moral character and repute;
- (2) Not at least 18 years of age;
- (3) Not the proprietor of the establishment for which the license is issued;
- (4) A person convicted of violating any law relating to the sale of 3.2 percent malt liquor or of intoxicating liquor within a period of five years prior to the date of the application; and/or
- (5) The owner or holder of, or to whom there is subsequently issued, a federal liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to the person a license to sell intoxicating liquor at the place.

(b) *Places.*

- (1) No license of any kind shall be granted for any premises where a licensee, or licensee's agent, servant, or employee, has been convicted of a violation of this Code or applicable state law, or where any license under LEC 11.08.160 et seq. has been revoked for cause, until one year has elapsed after the conviction or revocation, or the shorter period of time as the council, in its discretion, may establish.
- (2) No license shall be granted within 600 feet of the property line of any school, church, playground, or public park, except for those temporary licenses granted pursuant to LEC 11.08.160(d).
- (3) No license shall be granted for operation of any premises upon which taxes, assessments, or other financial claims of the operation are delinquent and unpaid.

(Code 1997, § 1205.11; Code 2007, § 111.50)

11.08.260 Conditions Of License

Every license shall be granted subject to the following subsections and all the provisions of this Code and any other applicable law.

- (a) *Posting license.* All licensed premises shall have the license posted in a conspicuous place at all times.
- (b) *Intoxicated persons.* 3.2 percent malt liquor shall not be sold or served to any intoxicated person.
- (c) *Gambling prohibited.* No gambling or any gambling device shall be permitted on any licensed premises.
- (d) *Retail.* No manufacturer or wholesaler of 3.2 percent malt liquor shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of M.S.A. § 340A.301, as it may be amended from time to time. No retail licensee and manufacturer or wholesaler of 3.2 percent malt liquor shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of 3.2 percent malt liquor, and no manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.
- (e) *Display.* No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. This subsection shall not apply to any place licensed as a bottle club, pursuant to the applicable state statutes. The presence of intoxicating liquors on the premises of a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale.
- (f) *Conduct.* Every licensee shall be responsible for the conduct of licensee's place of business and shall maintain conditions of sobriety and order.
- (g) *Prohibitions.* No tobacco products or soft drinks shall be sold in any saloon or tavern during the hours when the sale of 3.2 percent malt liquor is prohibited.
- (h) *Consumption.* No person shall consume or display any intoxicating liquor on the premises of the licensee, provided that this subsection shall not apply to any place licensed as a bottle club, pursuant to the applicable state statutes.
- (i) *Effective boundaries.* No license shall be effective beyond the compact and contiguous space named in the license for which it was granted, provided that the premises of a resort include the land upon which the resort is located.

(Code 1997, § 1205.12; Code 2007, § 111.51)

11.08.270 Hours Of Sale

No sale of 3.2 percent malt liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday, Monday through Saturday, inclusive. Neither shall any sale of the liquor be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon.

(Code 1997, § 1205.13; Code 2007, § 111.52)

11.08.280 Minors

It shall be unlawful for any:

- (a) Licensee or licensee's employee to sell or serve 3.2 percent malt liquor to any minor or to permit any minor to consume 3.2 percent malt liquor on the licensed premises or to permit any minor to loiter or to remain in the room where 3.2 percent malt liquor is being sold or served unless accompanied by the minor's parent or legal guardian;
- (b) Person to induce a minor to purchase or procure 3.2 percent malt liquor;
- (c) Minor to misrepresent his age for the purpose of obtaining 3.2 percent malt liquor; and/or
- (d) Minor to have in his possession any 3.2 percent malt liquor.

(Code 1997, § 1205.14; Code 2007, § 111.53)

11.08.290 Administrative Fines, Suspension, Revocation For Sale Of 3.2 Percent Malt Liquor To Minors

(a) *3.2 percent malt liquor.*

- (1) Any violation of the city's regulations relating to the issuance of a 3.2 percent malt liquor license or any conditions/restrictions attached to the issuance of the license shall be cause for the imposition of an administrative fine, the suspension of the license, and/or the revocation of the license. A licensee whose license has been revoked shall not be eligible for another 3.2 percent malt liquor license for one year from the date of license revocation.
- (2) No suspension or revocation shall take effect until the licensee has been given an opportunity for a hearing pursuant to M.S.A. §§ 14.57 through 14.69, as they may be amended from time to time, provided that the city shall not be required to conduct the hearing before an employee of the office of administrative hearings. If the violation relates to the sale of 3.2 percent malt liquor to minors by licensee's employees, the following administrative fines, suspension, or revocations may be imposed:

- a. After the first violation, if an affidavit of training is on file with the city for the employee who made the illegal sale, the city administrator shall provide licensee with a notice that a sale to a minor has been documented and shall include a copy of the city's administrative fine regulations with the city; or, if an affidavit of training is not on file with the city for the employee who made the illegal sale, the city administrator shall notify licensee that a sale to a minor has been documented, shall include a copy of the city's administrative fine regulations with the notice, and shall impose an administrative fine of \$200.00.
- b. The second violation within 12 months shall require the licensee to pay an administrative fine of \$200.00 if an affidavit of training is on file with the city for the employee who made the illegal sale; or, shall require the licensee to pay an administrative fine of \$400.00 if no affidavit of training is on file with the city for the employee who made the illegal sale.
- c. The third violation within 24 months shall require the licensee to pay an administrative fine of \$400.00 and shall result in a license suspension of seven business days if an affidavit of training is on file with the city for the employee who made the illegal sale; or shall require licensee to pay an administrative fine of \$800.00 and shall result in a license suspension for seven business days if an affidavit of training is not on file with the city for the employee who made the illegal sale.
- d. The fourth violation within 24 months shall result in license revocation.

(b) *Compliance checks.* The city or its law enforcement agencies shall conduct compliance checks at least once each calendar year at each location where a 3.2 percent malt liquor license has been issued to test compliance with the provisions of the city's regulations. Compliance checks shall utilize minors over the age of 18, but under the age of 21, who attempt to purchase 3.2 percent malt liquor under the direct supervision of a law enforcement officer.

(Code 2007, § 111.54; Ord. No. 97-101)

CHAPTER 11.12 TARGET RANGES

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11.12.010 Scope

- (a) This chapter shall apply to existing and future outdoor target ranges within the city.
- (b) A conditional use permit shall be required to construct, maintain, or operate an outdoor target range.

(Code 1997, § 1305.01; Code 2007, § 112.01)

11.12.020 Permit

The conditional use permit may be rescinded, after a two-week notice and a public hearing, if the council finds that the public health, safety, or welfare is jeopardized.

(Code 1997, § 1305.02; Code 2007, § 112.02)

11.12.030 Inspection

The range and range area shall be subjected to inspection prior to issuance of the permit and at any other time as the council may feel necessary without any notification.

(Code 1997, § 1305.03; Code 2007, § 112.03)

11.12.040 Application

- (a) The individual or organization requesting a permit for the construction of a new outdoor target range shall submit an application for the permit to the administrator.
- (b) The application shall include the following:
 - (1) A plan for adequate sewage treatment, a safe water supply, and the disposal of solid wastes;
 - (2) A letter outlining the proposed hours of operation, range etiquette, range rules to be posted, and provisions for emergency preparedness;
 - (3) A noise abatement plan;

- (4) Photos of the property and all ranges and facilities;
- (5) A site plan at a scale of one inch equals 50 feet which gives the legal description of the property, north point, location of all ranges to scale with distances to property lines proposed fencing along all developed property lines; topographic information at two-foot intervals showing all berms, noise barriers, drainage, and elevations of buildings; location and dimensions of all buildings, parking areas, and accesses; the type and nature of equipment to be installed; the type of range to be constructed; and adjacent property uses; and
- (6) A list of range officers in charge for the police department.

(c) The application will be reviewed by the building official, the city engineer, the city administrator and the other officials or consultants as the council may require; and their findings and recommendations shall be forwarded to the council and the applicant.

(Code 1997, § 1305.04; Code 2007, § 112.04)

11.12.050 Insurance

Public liability and property damage insurance, the minimum limits of coverage to be not less than \$300,000.00, shall be provided. The city shall be named as an additional insured and be furnished with evidence of the coverage.

(Code 1997, § 1305.05; Code 2007, § 112.05)

11.12.060 Club Or Organization

In the case of a club or organization, a list of officers is to be filed with the administrator. The council is to be notified of any change in writing to the city administrator.

(Code 1997, § 1305.06; Code 2007, § 112.06)

11.12.070 Construction

Construction of the range shall be of a permanent nature and must meet all safety standards as set up by the National Rifle Association (NRA). Any expansion of the range will require an amended conditional use permit.

(Code 1997, § 1305.07; Code 2007, § 112.07)

11.12.080 Warning Signs

The entire outer area of the property for which a permit is granted shall be posted with warning signs advising the public of possible danger. The signs shall be of a permanent

nature and posted at intervals of not less than 200 feet apart. Lettering shall be as follows:

<i>Sign Type</i>	<i>Letter Size</i>	<i>Color</i>
DANGER	4-inch	Red
TARGET RANGE	2-inch	Black
NO TRESPASSING	2-inch	Black

(Code 1997, § 1305.08; Code 2007, § 112.08)

11.12.090 Time Open Sign

The entrance to the range area must be posted as to the time the range is open for public use.

(Code 1997, § 1305.09; Code 2007, § 112.09)

11.12.100 Hours Of Shooting

A firearm may not be discharged prior to 8:00 a.m. and not after one-half hour before dusk of each day or at any other time that for any reason whatsoever would create a danger either to the general public or users of the range.

(Code 1997, § 1305.10; Code 2007, § 112.10)

11.12.110 Shooting Safety Signs

A sign shall be displayed at the entrance to the range area and at each firing point stating club rules and NRA rules for range and gun safety.

(Code 1997, § 1305.11; Code 2007, § 112.11)

11.12.120 Supervision

- (a) *Position of supervision.* When a range is open to the public, there is to be a minimum of one qualified range supervisor in charge at all times during the operation of a range. A holder of a firearm safety instructor certificate of the state department of natural resources (DNR) or an NRA firearms instruction certificate or having completed a range safety program inspected and endorsed by the DNR, shall constitute a qualified supervisor.
- (b) *Persons under age 18.* No one under the age of 18 years old shall be on the range, unless:
 - (1) Participating in a firearm safety training program;

- (2) Accompanied by a responsible adult; and/or
- (3) That person has received thorough indoctrination in range safety procedures and range etiquette, if pulling targets.

(Code 1997, § 1305.12; Code 2007, § 112.12)

11.12.130 Safety Rules And Regulations

All target ranges shall follow reasonable safety procedures. Prima facie evidence of reasonable safety procedures shall be those procedures set forth in the National Rifle Association Manual.

(Code 1997, § 1305.13; Code 2007, § 112.13)

CHAPTER 11.16 ADULT ESTABLISHMENTS

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11.16.010 Findings And Recitals

- (a)
 - (1) On February 20, 2007, the city council enacted an interim ordinance (Ordinance No. 97-189) creating a moratorium on the establishment of adult uses within the city and directing the city staff to conduct a study to determine how best to regulate such uses. The scope of the study was to include, but not be limited to, the following:
 - a. The particular zoning districts in which adult establishments should be allowed as either permitted or conditional uses;
 - b. The density and concentration of adult uses; and
 - c. The effect of adult uses on other uses in the surrounding area.
 - (2) Upon completion of the study, the matter was to be considered by the planning commission for its review and recommendation to the city council.
 - (3) The study has been completed and the planning commission has reviewed the study and has passed its recommendation to the city council for review. The city council has also reviewed the staffs study and duly considered the recommendation of the planning commission.

- (b) The staffs study contained copies of certain reports, specifically including a report which was prepared by the state attorney general entitled, "Report of the Attorney General's Working Group on Regulation of Sexually Oriented Businesses," dated June 6, 1989 (the report). The report considered evidence from studies conducted in Minneapolis, St. Paul, and many other cities throughout the country relating to sexually-oriented businesses. The city staff, planning commission, and city council have reviewed the report.
- (c) The report, based upon the above-referenced studies and the testimony and evidence, concluded, among other things, "that sexually-oriented businesses are associated with high crime rates and depression of property values." Prior to the issuance of the report, the State Attorney General's Working Group also heard testimony that "the character of a neighborhood can dramatically change when there is a concentration of sexually-oriented businesses adjacent to residential property." The report found and concluded that:
- (1) Adult uses have an impact on the neighborhoods surrounding them, which is distinct from the impact caused by other commercial uses;
 - (2) Residential neighborhoods located within close proximity to adult theaters, bookstores and other adult uses experience increased crime rates (sex-related crimes in particular), lowered property values, increased transiency, and decreased stability of ownership;
 - (3) The adverse impacts which adult uses have on surrounding areas diminish as the distance from the adult uses increases;
 - (4) Studies of other cities have shown that among the crimes which tend to increase either within or in the near vicinity of adult uses are rapes, prostitution, child molestation, indecent exposure and other lewd and lascivious behavior;
 - (5) The City of Phoenix, Arizona study confirmed that the sex crime rate was on the average 500 percent higher in areas with sexually-oriented businesses;
 - (6) Many members of the public perceive areas within which adult uses are located as less desirable than other areas which do not have such uses;
 - (7) Studies of other cities have shown that the values of both commercial and residential properties either are diminished or fail to appreciate at the rate of other comparable properties when located in proximity to adult uses; and
 - (8) The Indianapolis, Indiana study established that professional real estate appraisers believe that an adult bookstore would have a negative effect on the value of both residential and commercial properties within a one-to three-block area of the store.

- (d) The city council finds the characteristics of the city are substantially similar to those of the cities cited by the report when considering the effects of adult uses.
- (e) The city council finds, based upon the report and the studies cited therein, that adult uses may have adverse secondary effects upon certain preexisting land uses within the city, and that the public health, safety, and general welfare will be promoted if the city adopts regulations regarding adult uses.
- (f) The city council finds that the adverse secondary effects tend to diminish if adult uses in the city are regulated by locational and licensing requirements.
- (g) It is not the intent of the city to prohibit adult uses from having a reasonable opportunity to locate within the city.
- (h) The city's current zoning ordinance does not address such adult uses, which have been found by other municipalities to cause similar adverse secondary effects. Specifically, the city council is concerned that the city's zoning ordinance may be inadequate in its scope and in its restrictions to accomplish the purpose for which it was intended.
- (i) In addition to the proper zoning classification of such uses, there are a number of significant planning and land use issues pertaining to the regulation of such uses, including the following:
 - (1) The particular zoning districts in which such uses should be allowed as either permitted or conditional uses;
 - (2) The concentration and density of such uses in the city and its neighborhoods; and
 - (3) The effect of such uses on other uses in the surrounding area.

(Code 2007, § 113.01; Ord. No. 97-198, 8-21-2007)

11.16.020 Definitions

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

Adult establishment.

Adult patronage means any business that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by the owners of the business.

Adult usage means any business that engages in any adult use.

Receipts; floor area; types of merchandise means any business that:

- (a) Derives 25 percent or more of its gross receipts during any calendar month from;
or
- (b) Devotes 25 percent or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to; items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas.

Adult uses, generally, means and includes adult book stores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship 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, or 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, heard, or smelled by members of the public. Activities and matters classified as obscene as defined by M.S.A. § 617.241 are not included as an adult use and are prohibited in the city. The term "adult uses" includes, but is not limited to, the following:

Adult body painting studio means an establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.

Adult bookstore means a building or portion of a building used for the barter, rental or sale of items consisting of printed matter, specifically including, but not limited to, greeting cards, 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 excluding 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 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 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 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 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 hotel or motel means a hotel or motel from which minors are specifically excluded from patronage by reason of age 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 massage parlor, health club, means a massage parlor or health club which restricts minors by reason of age, or 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 modeling studio means a modeling studio which restricts minors by reason of age, or 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, or 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 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 motion picture machines, projectors or other image-producing devices (including, but not limited to, images from CD-ROM and/or the internet) 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 motion picture theater means a building or portion of a building used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason 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 novelty business means an establishment or business engaged in the sale of

novelty items which:

- (a) Restricts minors by reason of their age; or
- (b) Has as its principal activity the sale of devices and other products which:
 - (1) Stimulate human genitals or devices which are designed to create sexual stimulation or excitement;
 - (2) Are otherwise designed to stimulate or arouse sexual excitement in any manner whatsoever, specifically including, but not limited to, items such as inflatable dolls or similar devices; and/or
 - (3) Is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult 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 pleasure, bathing, relaxation, or reducing utilizing steam or hot air as a cleaning, relaxing or reducing agent, or if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult steam room/bathhouse facility means a building or portion of 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.

Minor means an individual under 18 years of age.

Specified anatomical areas means:

- (a) *Female*. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola; and
- (b) *Male*. Human male genitals even if completely and opaquely covered.

Specified sexual activities means:

- (a) *General sexually-oriented acts*.
 - (1) Actual or simulated:

- a. Sexual intercourse;
- b. Oral copulation;
- c. Anal intercourse;
- d. Oral-anal copulation;
- e. Bestiality;
- f. Direct physical stimulation of unclothed genitals or the female breast;
- g. Flagellation or torture in the context of a sexual relationship.

(2) The use of excretory functions in the context of a sexual relationship; or

(3) Any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;

(b) *Genitalia*. Any clear depiction of human genitals in the state of sexual stimulation, arousal or tumescence;

(c) *Certain uses and activities*. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(d) *Touching*. Fondling or touching of nude human genitals, public region, buttocks, or female breast;

(e) *Nature of clothing, or lack thereof*. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person;

(f) *Animals*. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being;

(g) *Irrigation*. Human excretion, urination, menstruation, vaginal irrigation.

(Code 2007, § 113.02; Ord. No. 97-198, 8-21-2007)

11.16.030 Regulation

(a) *Location restrictions*. The following restrictions set forth below shall apply to the location of adult establishments:

- (1) No adult establishment shall be operated or maintained except within the BP Commercial Zoning District pursuant to a conditional use permit.
- (2) No adult establishment shall be operated or maintained on a parcel within

1,350 feet of any residential district, public or private school with students primarily under the age of 18, or public facilities, or religious place of worship, or within 500 feet of another adult establishment. Distance shall be measured from the closest point of the lot lines of subject uses.

- (3) No adult establishment incorporating live performances shall be operated or maintained on a parcel within 50 miles of another adult establishment that provides space for live performances. Distance shall be measured from the closest point of the lot lines of subject uses.

(b) *Sign requirements.* In addition to the requirements of sign regulations of the development ordinance (and as subsequently amended), all businesses regulated under this chapter shall comply with the following sign requirements:

- (1) All signs shall be wall signs.
- (2) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or in any area where they can be viewed from a public street or sidewalk in front of the building.
- (3) Window areas shall not be covered or made opaque in any way.
- (4) No sign shall be placed in any window.
- (5) A one square-foot sign shall be placed on the door of the establishment to state hours of operation and admittance is limited to adults only.
- (6) Sign content shall be limited to text only. Text is limited to the name of the business and its address.
- (7) Where any provisions of this section conflict with sign ordinances, the provision that is more stringent shall be applied.

(c) *Physical layout of business.* Any adult establishment, having available for customers, patrons or members, a booth, room or cubicle for the private viewing of any specified anatomical areas or specified sexual activities, must comply with the following requirements:

- (1) Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult establishment and shall be unobstructed by any door, lock or other control type devices.
- (2) Every booth, room or cubicle shall meet the following construction requirements:
 - a. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.
 - b. Each booth, room or cubicle shall have at least one side totally open to a public lighted aisle so there is an unobstructed view at

all times of anyone occupying the area.

- c. All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light-colored, non-absorbent, smooth-textured and easily cleanable.
- d. The floor must be light-colored, non-absorbent, smooth-textured and easily cleanable.
- e. The lighting level of each booth, room or cubicle when not in use shall be a minimum of ten footcandles at all times, as measured from the floor.

- (3) Only one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

(d) License required.

- (1) From and after the effective date of this chapter, no adult establishment shall be operated or maintained in the city without first obtaining a license to operate issued by the city.
- (2) A license may be issued for only one adult establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one adult establishment shall have a separate license for each such business.
- (3) No license or interest in a license may be transferred to any person, partnership, corporation, or other entity.
- (4) Only one licensed adult establishment may be operated:
 - a. Within a single building; or
 - b. Upon a single tax parcel.
- (5) No liquor license shall be issued for an adult establishment.

(e) Application for license.

- (1) Any person, partnership or corporation desiring to secure a license shall make application to the city clerk.
- (2) The application for a license shall be upon a form provided by the city.
- (3) An applicant shall furnish the following information:
 - a. Names, addresses and dates of birth of applicant and spouse, if any;

- b. Written proof that the applicant is at least 18 years of age;
 - c. Address of the adult establishment to be operated by the applicant;
 - d. The name of the city, county and state, if any, where the applicant previously operated an adult establishment;
 - e. Whether the applicant has ever been convicted of a felony involving sexual conduct, the use or distribution of controlled substances or the use or distribution of a dangerous weapon. If the answer to the last is yes, state the jurisdiction in which the offense or offenses occurred. The applicant may attach any explanation he deems appropriate; and
 - f. If the applicant is a corporation (partnership/limited liability company/trust or other business entity which is not a natural person), the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of all shareholders owning more than five percent of the stock in said corporation and all officers and directors of the corporation.
- (4) Within 60 days of receiving a completed application for a license, the city clerk shall submit the application to the city council for approval or denial.
- (5) Failure or refusal of the applicant to give any information relative to the investigation of the application shall constitute grounds for denial of the license.

(f) *Standards for issuing licenses.*

- (1) To receive a license to operate an adult establishment, an applicant must meet the following standards:
- a. The applicant must be 18 years of age or older.
 - b. The applicant or his spouse has not been denied a similar license by any other city, county or state within the preceding 12 months or has not had such a license revoked or suspended within the preceding 12 months.
 - c. All current real estate taxes have been paid on the licensed premises.
 - d. The licensed premises meets all the provisions of this chapter as well as all building and fire codes.
 - e. The applicant or spouse has not been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a

sexual nature or involving the use or distribution of a controlled substance as defined by state laws, or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the applicant.

f. All license and investigation fees required by this chapter have been paid.

- (2) For the purposes of this subsection (f), the term "applicant" shall include an individual, all persons having a financial interest in a partnership or joint venture, and, in the case of a corporation (partnership/limited liability company/trust or other business entity which is not a natural person), all officers, directors and stockholders required to be named in the application.
- (3) All police, fire and building code investigations shall be completed within 21 days after the date the completed application is filed with the city clerk. Upon a showing of good cause and reasonable diligence on the part of an investigator, the city council may extend the investigation period for a reasonable time. Any investigation not completed within the allotted time period shall be deemed to be waived.

(g) *License fees.*

- (1) The annual license fee to operate an adult establishment shall be determined by the city council by resolution.
- (2) In addition to the annual license fee, an investigation fee in an amount determined by the city council by resolution shall be paid at the time of the initial license application.
- (3) All appropriate fees shall be submitted along with the application for a new or renewal license.
- (4) If an application is denied, the license fee, but not the investigation fee, shall be refunded to the applicant.

(h) *Display of license.* The license shall be displayed in a conspicuous public place in the adult establishment.

(i) *Renewal of license.*

- (1) Every license issued pursuant to this chapter shall expire at 12:00 midnight on December 31 of each year unless sooner revoked by the city council, and must be renewed before operation is allowed in the following year.
- (2) Applications for renewal must be submitted with the annual license fee to the city clerk not later than 60 days before the license expires.

- (3) Renewal of a license may be issued by the city clerk unless the clerk finds cause for not renewing the license, in which case the clerk shall submit the renewal application to the city council prior to the expiration of the license.
- (4) No license for which application for renewal has been timely made shall be deemed to expire until the city council has rendered its decision not to renew a license. No application for renewal of a license may be denied by the city council until after the applicant has received ten days' written notice of a public hearing before the council. The applicant may appear with or without counsel at that public meeting and may present such evidence and witnesses as he deems appropriate.

(j) *Revocation of license.*

- (1) The city council shall revoke a license for any of the following reasons:
 - a. Discovery that false or misleading information or data was given on any initial or renewal application or material facts were omitted from any such application;
 - b. The operator or an employee of the operator violates any provisions of this chapter or any rule or regulation adopted by the council pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee the penalty shall not exceed a suspension of 30 days if the council finds that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge;
 - c. The operator becomes ineligible to obtain a license;
 - d. Any cost or fee required to be paid by this chapter is not paid; and/or
 - e. Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult establishment.
- (2) The council, before revoking or suspending any license, shall give the operator ten days' written notice of the charges against him, and an opportunity for a public hearing before the council, at which time the operator may appear with or without counsel and may present such evidence and witnesses as he deems appropriate.
- (3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (4) Any operator whose license is revoked shall not be eligible to receive a

license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult establishment for six months from the date of revocation of the license.

(k) Responsibilities of operator.

- (1) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (2) Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for the purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (3) No employee of an adult establishment shall allow any minor to loiter around or to frequent the adult establishment or to allow any minor to view specified anatomical areas or specified sexual activity at the adult establishment.
- (4) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (5) The operator shall maintain at least ten footcandles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles; provided, however, at no time shall there be less than one footcandle of illumination in said aisles as measured from the floor.
- (6) All business transactions shall occur within the licensed building.
- (7) No employee shall have been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use or distribution of a controlled substance as defined by state laws, or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the employee.
- (8) No minor may be employed by or work at an adult establishment.
- (9) The operator shall ensure and be responsible for the compliance of the establishment and its patrons with the provisions of this chapter.

- (l) *Exclusions.* All public and private schools or churches located within the city are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.
- (m) *No minors.* No person under the age of 18 shall be permitted to be present in an adult establishment.
- (n) *Hours of operation.* The hours of operation for any business licensed under this chapter shall be between 9:00 a.m. to 12:00 midnight.
- (o) *Enforcement.* Members of the law enforcement agency providing service to the city, the fire marshal, or designee, the building official or designee and the zoning administrator or designee, shall have authority to enter any adult establishment at all reasonable times to inspect the premises for the purposes of enforcing this chapter and all other applicable state laws, fire codes and building codes.

(Code 2007, § 113.03; Ord. No. 97-198, 8-21-2007)

11.16.040 Means Of Enforcement

The city may enforce any provision of this chapter by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction. The chapter may also be enforced by appropriate criminal prosecution.

(Code 2007, § 113.04; Ord. No. 97-198, 8-21-2007)

11.16.050 Penalty

- (a) Any individual, partnership or corporation (partnership/limited liability company/trust or other business entity which is not a natural person) who is found to have violated the provisions of this chapter shall be guilty of a misdemeanor and shall also be subject to revocation of any license.
- (b) Each violation of this chapter shall be considered a separate offense and any violation continuing more than one day shall be considered a separate offense.

(Code 2007, § 113.99; Ord. No. 97-198, 8-21-2007)

CHAPTER 11.20 THERAPEUTIC MASSAGE

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11.20.010 Purpose

The city council finds that therapeutic massage and bodywork establishments potentially provide an opportunity for the commission of crimes, including, but not limited to, prostitution. The purpose of this chapter is therefore to prevent businesses from being used as facilities for 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.

(Code 2007, § 114.01; Ord. No. 2012-064, 12-4-2012)

11.20.020 Definitions

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

Accredited institution means an educational institution currently holding accredited status from the North Central Association of Colleges and Schools (NCA) or another regional accrediting agency approved by the United States Department of Education or is licensed or registered by the state agency having jurisdiction over the school. The accredited institution must also be in compliance with the National Certification Board for Therapeutic Massage and Bodywork or other nationally recognized certification licensing organizations.

Accredited program means a professional massage program currently holding accredited status by the commission on massage therapy accreditation (COMTA), or a comparable national or regional organization which is approved by the United States Department of Education for its accrediting program for compliance with quality and competency standards through a process of periodic peer review and self-study. The accredited program must also be in compliance with the National Certification Board for Therapeutic Massage and Bodywork or other nationally recognized certification licensing organization.

(Code 2007, § 114.02; Ord. No. 08-067, 2-5-2013)

11.20.030 License Required

- (a) No person shall exercise, carry on, or be engaged in the trade or business of providing massage therapy or bodywork or operating a massage therapy or bodywork establishment unless such person is currently licensed under this chapter. The application and licensing processes are described in LEC 11.20.110 through LEC 11.20.140. This section is intended to require the licensing of the business as an entity, as well as each person employed by the business for the purpose of providing therapeutic massage or bodywork therapy.
- (b) Notwithstanding the licensing requirements detailed under subsection (a) of this section, therapeutic massage premises license holders allowing persons to provide therapeutic massage or bodywork services at a therapeutic massage establishment without a current license may be held responsible and charged with a violation of this chapter.

(Code 2007, § 114.03; Ord. No. 2012-064, 12-4-2012)

11.20.040 Licensing Exceptions

The following persons or places, as described, shall be exempt from the licensing requirements of this chapter:

- (a) Persons duly licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage or bodywork business.
- (b) Persons duly licensed by the state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments and, provided that massages provided by beauty culturists are limited to the head, hand, neck and feet, and that massages provided by barbers are limited to the head and neck.
- (c) Students participating in an educational massage therapy program at an accredited college providing therapeutic massage therapy under the direct supervision of a licensed massage therapist/bodyworks therapist, or licensed health professional under which massage is within the scope of their practice.
- (d) Off-site locations at which a client receives therapeutic massage or bodywork services from a licensed massage or bodywork therapist, licensed pursuant to the terms of this chapter.
- (e) As described in M.S.A. § 471.709, a massage therapist who is working for or an employee of a medical professional licensed under M.S.A. ch. 147 or 148.

(Code 2007, § 114.04; Ord. No. 2012-064, 12-4-2012)

11.20.050 Persons And Locations Ineligible For A License

- (a) No license under this chapter shall be issued to an applicant who is a natural person if such applicant:
 - (1) Is a minor at the time the application is filed;
 - (2) Has been convicted of or entered a plea of guilty within the previous three years to a violation of this chapter or of any other law regulating the practice of therapeutic massage, or of any law prohibiting criminal sexual conduct, prostitution, pandering, indecent conduct, or keeping of a disorderly house;
 - (3) Is not of good moral character or repute;
 - (4) Holds an intoxicating liquor license under LEC 11.08; or
 - (5) Provides any false, fraudulent, or deceptive information in the required application.
- (b) The provisions of this section as described in subsections (a)(1) through (5) of this section, shall also apply to any partnership if such applicant has any general partner or managing partner meeting any of the described criteria; and shall also apply to any corporation or other organization if such applicant has any manager, proprietor, or agent in charge of the business meeting any of the described criteria.
- (c) The following locations shall be ineligible for a license under this chapter:
 - (1) No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the state, county, school district, or city are due, delinquent, or unpaid. In the event a suit has been commenced under M.S.A. §§ 278.01 through 278.03, questioning the amount or validity of taxes, the city council may on application 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.
 - (2) No license shall be granted or renewed if the property on which the business is to be conducted is owned by a person who is ineligible for a license under the requirements of any chapter of this Code.

(Code 2007, § 114.05; Ord. No. 2012-064, 12-4-2012)

11.20.060 Fees

- (a) *Application fee.*

- (1) The license application fee shall be as determined by the city council, and should, as closely as possible, reflect the actual cost of processing, verifying, and approving the application. An applicant for any license under this chapter shall be responsible for the payment of all actual expenses related to the background investigation conducted by the city, up to a maximum cost of \$250.00 per person employed or contracted with as a massage or bodyworks therapist. The intent of this section is to require a background investigation for all persons employed by or contracting with any massage therapy or bodywork business operating within the city. These costs shall be paid to the city prior to the issuance of an individual or business license.
 - (2) In the event that the licensed premises defines a structure not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be 90 days after approval of the license by the city council or upon the date the building is ready for occupancy, whichever is sooner.
 - (3) When a new license application is submitted as a result of incorporation by an existing licensee and the ownership, control, and interest in the license are unchanged, no additional fee shall be required.
- (b) *Annual license renewal fee.* The annual license renewal fee shall be determined by the city council and should, as closely as possible, reflect the actual cost of processing, verifying and approving the renewal application. For the purpose of establishing an initial licensing fee, the annual renewal fee shall be calculated at the rate of \$50.00 for the business entity and \$25.00 per massage therapy or bodyworks practitioner employed by or contracting with the business entity.

(Code 2007, § 114.06; Ord. No. 2012-064, 12-4-2012)

11.20.070 General License Restrictions

- (a) *Educational requirements.* Persons applying for a license under this chapter shall provide, in addition to the general application described later in this chapter:
- (1) One of the following:
 - a. Proof of successful completion of a minimum of 500 hours of therapeutic massage training/coursework that includes subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited institution or program;
 - b. A diploma or certificate of graduation from a comprehensive massage therapy program consisting of the coursework stated in subsection (a)(1)a of this section, issued to the applicant from an

accredited institution or an accredited program;

c. Proof of passing the National Certification Exam offered by the National Certification Board for Therapeutic Massage and Bodywork or proof of passing the Federation of State Massage Therapy Boards (FSMTB) Massage and Bodywork Licensing Examination (MBL Ex);

d. Such other information as the city shall require; and

(2) Proof of current certification in the administration of cardiopulmonary resuscitation (CPR). This certification must remain valid at all times.

(b) *Inspection of premises.* During business hours, all therapeutic massage and bodywork establishments shall be open to inspection by city building and license inspectors, health officers, and licensed peace officers. At the request of the described inspecting parties, any person licensed under this chapter shall produce correct and authentic identification that includes a true legal name and current home address.

(c) *License display.* A license issued under this chapter must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application. In addition to the license issued to the business establishment, the licenses issued to individual persons employed by the business shall be displayed in a similar manner.

(d) *Maintenance of order.* A licensee under this chapter shall be responsible for the conduct of the business being operated and shall maintain conditions of order.

(e) *Gambling.* No licensee under this chapter may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under M.S.A. §§ 349.11 through 349.60, may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S.A. §§ 349A.01 through 349A.15.

(f) *Alcohol or drugs prohibited.* No beer, liquor, narcotic drug, or controlled substance, as such terms are defined by state statutes or this Code, shall be permitted on the premises.

(g) *Building, safety and health regulations.* Any establishment licensed under this chapter shall be in full compliance with all applicable local, state and federal building, safety and health laws and regulations.

- (h) *Locks on doors.* There shall be no locks placed upon or used on the doors of massage rooms.
- (i) *Professional liability insurance.* Each business as an entity and each practitioner individually shall obtain and keep current a professional liability insurance policy governing the activities of the business and practitioner.
- (j) *M.S.A. ch. 146A.* Each business as an entity and each practitioner individually shall additionally comply with all of the requirements and regulations established by M.S.A. ch. 146A. This chapter establishes the state office of unlicensed complementary and alternative health care practice and establishes additional regulations and requirements for these businesses types.
- (k) *Appointment record requirement.* All licensees shall be responsible for keeping appointment records of all off-site therapeutic massage/bodywork services provided. The records shall be sequential and shall include the name of the therapist conducting the service, the name and signature of the client, the address where the service was provided, and the date and time of the service. Licensed therapists shall have appointment records in possession at all off-site locations. Appointment records shall be kept for a period of 24 months from the date of the service.

(Code 2007, § 114.07; Ord. No. 2012-064, 12-4-2012; Ord. No. 08-067, 2-5-2013)

11.20.080 Restrictions Regarding License Transfer

Each license under this chapter shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give, or assign a license to another person.

(Code 2007, § 114.08; Ord. No. 2012-064, 12-4-2012)

11.20.090 Suspension Or Revocation Of License

- (a) The city council may suspend or revoke a license issued under this chapter upon a finding of a violation of:
 - (1) Any of the provisions of this chapter;
 - (2) Any state statute regulating therapeutic massage or bodywork; or
 - (3) Any state or local law relating to moral character and repute.
- (b) Any conviction by the license holder for any other law regulating the practice of massage or bodywork, or of any law prohibiting criminal sexual conduct, prostitution, pandering, indecent conduct, or keeping of a disorderly house shall result in the immediate suspension pending a hearing on revocation of any license issued hereunder.

- (c) Except in the case of a suspension pending a hearing on revocation, a revocation or suspension by the city council shall be preceded by written notice to the licensee and a public hearing. The written notice shall give at least eight days' notice of time and place of the hearing and shall state the nature of the charges against the license holder. The council may, without any notice, suspend any license pending a hearing on revocation for a period not to exceed 30 days. The notice may be served upon the license holder by United States mail addressed to the most recent address of the business in the license application.

(Code 2007, § 114.09; Ord. No. 2012-064, 12-4-2012)

11.20.100 Prohibited Acts

Any touching, manipulation, stimulation, or excitation of the primary genital area of a client by a massage therapist or bodywork practitioner, or of a massage therapist or bodywork practitioner by a client, pursuant to the provision of a massage or bodywork technique, is expressly prohibited. The offer or suggestion to provide any of the described acts to a client by the massage therapist or bodywork practitioner is prohibited.

(Code 2007, § 114.10; Ord. No. 2012-064, 12-4-2012)

11.20.110 Application Content

Every application for a license under this chapter shall be made on a form supplied by the issuing authority and shall contain the information described below. The intent of the application process is to acquire sufficient information on the owner of the business and each employee or contractor with the business as to allow a thorough background investigation and an informed decision by the city with regard to licensing. If the applicant is employed by or contracting with a business, and is not the owner of the business, it will not be necessary to provide information regarding the applicant's spouse.

(a) If the applicant is a natural person.

- (1) The name, place and date of birth, street address, and phone number of the applicant;
- (2) Whether the applicant is a citizen of the United States or a resident alien;
- (3) Whether the applicant has ever used or been known by another name other than the applicant's name, and if so, the name or names used and information concerning the dates and places when used;
- (4) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S.A. § 333.01;

- (5) Whether the applicant will engage in off-site massage/bodywork services;
- (6) The street addresses at which the applicant has lived during the preceding five years;
- (7) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five years and the names and addresses of the applicant's employers and partners, if any, for the preceding five years;
- (8) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had; and
- (9) The physical description of the applicant.

(b) If the applicant is married.

- (1) The name, place and date of birth, and street address of the applicant's current spouse;
- (2) The type, name, and location of every business or occupation in which the applicant's current spouse has been engaged during the preceding five years;
- (3) The names and addresses of the employers or partners of the applicant's current spouse for the preceding five years; and
- (4) Whether the applicant's current spouse has ever been convicted of any felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for such convictions.

(c) If the applicant is a partnership.

- (1) The names and addresses of all general and limited partners and all information concerning each general partner required in subsection (a) of this section;
- (2) The names of the managing partners and the interest of each partner in the massage therapy business; and
- (3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S.A. § 333.01, a certified copy of such certificate shall be attached to the application.

(d) If the applicant is a corporation or other organization.

- (1) The name of the corporation or business form, and if incorporated, the state of the incorporation;
- (2) A true copy of the certificate of incorporation, articles of incorporation or association agreement, and bylaws shall be attached to the application. If the application is a foreign corporation, a certificate of authority as required by M.S.A. § 303.06 shall be attached;
- (3) The name of the managers, proprietors, or other agents in charge of the business and all information concerning each manager, proprietor, or agent required in subsection (a) of this section; and
- (4) A list of all persons who control or own an interest in excess of five percent in such organization or business form or who are officers of the corporation or business form and all information concerning the persons required in subsection (a) of this section.

(e) *For all applicants.*

- (1) Whether the applicant holds a current massage therapy license from any other governmental unit;
- (2) Whether the applicant has previously been denied a massage therapy license from any other governmental unit;
- (3) The names, street resident addresses, and business addresses of three residents of the seven-county metropolitan area, who are of good moral character and who are not related to the applicant or not holding any ownership in the premises or business, who may be referred to as to the applicant's and/or manager's character;
- (4) The location of the business premises;
- (5) The legal description of the premises to be licensed;
- (6) Whether all real estate and personal property taxes that are due and payable to the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;
- (7) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the city building department, no plans need to be submitted with the issuing authority; and
- (8) Such other information as the city council or issuing authority may require.

(Code 2007, § 114.11; Ord. No. 2012-064, 12-4-2012)

11.20.120 Application Execution

All applications for a license under this chapter shall be signed and sworn to. If the application is that of a natural person, it shall 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. Any falsification on a license application shall result in the denial of a license.

(Code 2007, § 114.12; Ord. No. 2012-064, 12-4-2012)

11.20.130 Application Verification

All applications shall be referred to the issuing authority for verification and investigation of the facts set forth in the application. The issuing authority shall make a written report and recommendation to the city council as to the issuance or non-issuance of the license. The city council may order and conduct such additional investigation as it deems necessary.

(Code 2007, § 114.13; Ord. No. 2012-064, 12-4-2012)

11.20.140 Application Consideration

- (a) The city council shall conduct a hearing on the license application within a reasonable period following receipt of the issuing authority's report and recommendation regarding the application. At least ten days in advance of the city council hearing on an application, the issuing authority shall cause notice of the hearing to be published in the official newspaper of the city, setting forth the day, time, and place of the hearing; the name of the applicant; the premises where the business is to be conducted; and the type of license which is sought. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. Additional hearings on the application may be held if the city council deems additional hearings necessary. After the hearing or hearings on the application, the city council may, in its discretion, grant or deny the application.
- (b) If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.

(Code 2007, § 114.14; Ord. No. 2012-064, 12-4-2012)

11.20.150 Expiration Of License; Prorating

All licenses issued pursuant to this chapter shall expire on October 31 of each year. Each license shall be issued for a period of one year except that, if a portion of the

license year (November to October following) has elapsed at such time as the application is filed, a license may be issued for the remainder of the license year for a pro rata fee. For the purpose of computing such pro rata fee, any fraction of a month falling within the license period shall be counted as a full month.

(Code 2007, § 114.15; Ord. No. 2012-064, 12-4-2012)

11.20.160 Renewal Application

- (a) Applications for the renewal of an existing license shall be made at least 30 days prior to the date of the expiration of the license and shall be made in such form as the issuing authority requires. If, in the judgment of the issuing authority, good and sufficient cause is shown by an applicant for the applicant's failure to submit a renewal application before the expiration of the existing license, the issuing authority may, if the other provisions of this chapter are complied with, grant the renewal application.
- (b) A license under this chapter will not be renewed:
 - (1) If the issuing authority determines that the licensee has failed to comply with the provisions of this chapter in preceding license years;
 - (2) If the licensee, or if the licensee does not manage the establishment, the manager of the licensed premises is not a resident of the seven-county metropolitan area on the date that the renewal takes effect;
 - (3) If in the case of a partnership, the managing partner or other person who manages the establishment is not a resident of the seven-county metropolitan area on the date the renewal takes effect; or
 - (4) If in the case of a corporation, or other organization, the manager, a proprietor, or agent in charge of the establishment is not a resident of the seven-county metropolitan area on the date the renewal takes effect.
- (c) The time for establishing residence in the seven-county metropolitan area may, for good cause, be extended by the city council.

(Code 2007, § 114.16; Ord. No. 2012-064, 12-4-2012)

11.20.170 Penalty

A violation of this chapter shall be a misdemeanor under state law.

(Code 2007, § 114.99; Ord. No. 2012-064, 12-4-2012)

CHAPTER 11.24 BUILDING CONTRACTORS

11.24.010 Policy

11.24.020 License And Permit Required

[11.24.030 Application For License; Insurance Requirements; Issuance Or Denial](#)

[11.24.040 Standards For License Issuance And Denial; Term](#)

[11.24.050 License Fee; Exemption](#)

[11.24.060 Suspension Or Revocation Of License](#)

[11.24.070 Exemptions From Provisions](#)

[11.24.080 Effect On Liability](#)

11.24.010 Policy

It is deemed in the interest of the public and the residents of the city that the work involved in building, alteration, construction, and the installation of various appliances and service facilities in and for such buildings be done only by individuals that have demonstrated or submitted evidence of their competency to perform such work in accordance with applicable codes and ordinances of the city regulating the same.

(Code 2007, § 115.01; Ord. No. 08-069, 2-19-2013)

11.24.020 License And Permit Required

(a) License required.

- (1) No person, firm or corporation shall operate, maintain, conduct or engage in the following businesses or work, except in accordance with state statutes, this Code and other applicable ordinances of the city:

- a. Driveway.
- b. Right-of-way.

- (2) This section shall not be construed as preventing any such qualified licensee from performing the work by an employee under his supervision and control, or by contract with another person qualified to perform the same, provided that the contractor is subject to the control of the licensee, and the licensee is at all times responsible for the work performed. A contractor not subject to the control of a licensee shall be required to obtain a license.

- (b) Permit required.* For each of the businesses or occupations listed in subsection (a)(1) of this section for which the state provides for the registration thereof, permits shall be granted only to holders of a state or city license; except that the owner of any property may perform work when work is performed in accordance with the codes and ordinances of the city, and for such purpose, a permit may be granted to such owner without a license obtained.

(Code 2007, § 115.02; Ord. No. 08-069, 2-19-2013; Ord. No. 08-183, § 1, 7-18-2017)

11.24.030 Application For License; Insurance Requirements; Issuance Or Denial

(a) Contents of application; insurance.

(1) Applications for a license shall be made on a form provided by the city clerk. On such form, the applicant shall state the following information:

- a. His name, and business and home address; and if the application is made on behalf of a partnership, association or corporation, the name and address of such partnership, association or corporation, and the phone number of the contact person;
- b. If the proposed licensee is a partnership, the name and home addresses of all partners; or if the proposed licensee is an association or corporation, the names and home addresses of its principal officers and managers and of the owners (not to exceed ten) or the largest shareholders of the business or enterprise; and
- c. Such information as is required to be furnished by ordinance or is reasonably required by the city clerk or other applicable city departments.

(2) The application shall include documentation indicating insurance coverage, which shall remain in effect during the license term, and non-cancellation provisions, which provide a minimum of 30 days' notice to the city prior to cancellation, as follows:

- a. Comprehensive general liability insurance not less than \$100,000.00 for injuries including accidental death to any one person, and subject to the same limit for each person in an amount of not less than \$300,000.00 on account of any one accident;
- b. Property damage insurance not less than \$50,000.00 for each accident and not less than \$100,000.00 aggregated; and
- c. Workers' compensation insurance coverage of employees as required by state law.

(b) *Signatures required.* The proposed licensee shall sign the application; or if the proposed licensee is a partnership, an association or corporation, at least one person having power under its bylaws to execute contracts of the association or corporation shall sign.

(c) *Renewal applications.* Applications for renewals of licenses may, in the interest of brevity, substitute for any required information a reference to statements contained in previous applications, which are on file with the city.

(d) *Issuance of license.* The license shall be granted by the city clerk, after positive

recommendations from applicable city staff, upon proof of the applicant's qualifications, and compliance with LEC 11.24.040.

- (e) *Denial of license; appeal.* In the event the city clerk determines that the application does not comply with the ordinance criteria, the report and recommendation of the city clerk and applicable staff shall be referred to the city council, together with the reason or reasons for the proposed denial. A copy of the recommendation shall be supplied to the applicant. The applicant may appear before the city council to respond to the recommendation of denial. The city council shall make the appropriate findings and either issue or deny the license application.

(Code 2007, § 115.03; Ord. No. 08-069, 2-19-2013)

11.24.040 Standards For License Issuance And Denial; Term

- (a) *Standards for issuance generally; term.* Licenses and renewals thereof shall be issued after a verification of the applicant's qualification and record in the performance and operation of the types of work for which the applicant seeks a license. Licenses shall be issued for one calendar year from January 1 through December 31. New licenses will run from date of issuance through December 31.
- (b) *Standards for denial.* Licenses and renewals therefor may be denied by the city council for any of the following reasons:
 - (1) Failure to complete the application or file the required license fee or insurance policy.
 - (2) Misstatement in the application.
 - (3) Failure to comply with special conditions required by statute or ordinance for issuance of a license.
 - (4) Violations of licensing ordinances by applicant, or suspension or revocation licenses held by the applicant in the city or elsewhere.
 - (5) Violation of any state statute or city code provision which creates a threat to the public peace, health, safety and welfare.
 - (6) Disregard and violation of the building, housing, sanitary, health, or fire laws of the state, county, or city.
 - (7) Any conduct which is contrary to the public interest, including, but not limited to, fraud, misrepresentation, or other dishonest or deceitful conduct.

(Code 2007, § 115.04; Ord. No. 08-069, 2-19-2013)

11.24.050 License Fee; Exemption

The annual fee for license shall be established by ordinance of the city council from time to time. No license fee shall be required of any person, firm or corporation, pursuant to this section, who, by state law, is required to attain standards of competency or experience as a prerequisite to engaging in such craft or profession, provided that the person shall provide evidence to the city that the individual, firm or corporation has a license in good standing from the state, and further provides proof of insurance in effect through the term of license issued by the state.

(Code 2007, § 115.05; Ord. No. 08-069, 2-19-2013)

11.24.060 Suspension Or Revocation Of License

(a) *Grounds for suspension or revocation.* If any licensee violates or is in default of complying with any condition, requirement, duty or rule of conduct imposed on him by any statute or ordinance, or if any one or more of the following conditions exist, the city clerk may initiate proceedings before the city council to suspend or revoke the licensee's license:

- (1) If the applicant for a license or renewal thereof knowingly made any false statements in the application for a license;
- (2) When the applicant has violated any state statute or city code provision which creates a threat to the public peace, health, safety and welfare;
- (3) When there is disregard and violation of the building, housing, sanitary, health or fire laws of the state, county or city;
- (4) For failure to notify the city of any change in control of ownership, management or business name or location within 30 days of such change;
- (5) Conducting a building contracting business in any name other than the one for which the contractor is licensed; or
- (6) Any conduct which is contrary to the public interest, including, but not limited to, fraud, misrepresentation or other dishonest or deceitful act.

(b) *Procedures for suspension or revocation.* Procedures for suspension or revocation shall be as follows:

- (1) The licensee shall be provided with notice of the reasons for any proposed suspension or revocation. The notice shall provide the licensee with an opportunity to explain the rationale for the proposed suspension or revocation.
- (2) The licensee shall be notified in advance of the date, time, place and purpose of the council meeting where the action on the license will be

considered. The licensee shall have an opportunity to be heard at the meeting. After making appropriate findings, the council may continue the license in effect, impose conditions on the license or revoke the license.

(Code 2007, § 115.06; Ord. No. 08-069, 2-19-2013)

11.24.070 Exemptions From Provisions

No license will be required under this chapter in the following circumstances:

- (a) For public service corporations performing work upon or in connection with their own property, except as may be provided by other provisions of this Code.
- (b) For manufacturers for work incorporated with equipment as a part of the manufacturing, except as provided in other provisions of this Code.

(Code 2007, § 115.07; Ord. No. 08-069, 2-19-2013)

11.24.080 Effect On Liability

This chapter shall not be construed to affect the responsibility or liability for any party owning, operating, or installing the work described in this chapter for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the licensing of persons engaged in such work.

(Code 2007, § 115.08; Ord. No. 08-069, 2-19-2013)

TITLE 13 GENERAL OFFENSES

13.00-I GENERAL PROVISIONS

13.00-II TRAPPING

13.00-III NOISE CONTROL

13.00-I GENERAL PROVISIONS

13.00.010 Conduct Or Acts Forbidden

13.00.020 Use Of Firearms; Hunting

13.00.030 Curfews

13.00.010 Conduct Or Acts Forbidden

The provisions of M.S.A. ch. 609, the state criminal code, as it may be amended from time to time, defining certain crimes, are hereby incorporated in this Code by reference as though fully set forth in this section, to the extent applicable within municipalities and within the city's jurisdiction and authority.

(Code 1997, § 1330.01; Code 2007, § 130.01)

13.00.020 Use Of Firearms; Hunting

The use of firearms and hunting in the city shall be in accordance with M.S.A. § 97B.001.

(Code 2007, § 130.15; Ord. No. 08-142, 8-2-2016)

13.00.030 Curfews

The following curfews shall be effective within the city:

- (a) *Under 15 years of age.* Except as hereinafter provided, it shall be unlawful for any person under 15 years of age to be present in a public place; in any private establishment which is open to the public; or on private property other than their usual place of residence, between the hours of 10:00 p.m. and 5:00 a.m. the following day.
- (b) *Fifteen years to less than 18 years.* Except as hereinafter provided, it shall be unlawful for any person who is at least 15 years of age but less than 18 years of age to be present in a public place; in any private establishment which is open to the public; or on private property other than their usual place of residence, between the hours of 12:00 midnight and 5:00 a.m. the following day.
- (c) *Exceptions.* The curfew shall not apply to any person who is accompanied by their parent, legal guardian, or other adult person in charge of their care and custody; or who is on an emergency, errand, or other lawful activity as directed by their parent, legal guardian, or other adult person in charge of their care or

custody; or who is employed in or on the way to or from a legal place of employment.

- (d) *Allowing curfew violations.* It shall be unlawful for any parent, legal guardian, or other person in charge of the care or custody of a person under 18 years of age to allow the person to violate the curfew regulations of the city.
- (e) *Entertainment and amusement businesses.* It shall be unlawful for any person, firm, or corporation in charge of any business establishment to permit a person under 18 years of age to be on or in the place of business in violation of the curfew provisions of the city.

(Code 1997, § 1375.01; Code 2007, § 130.60)

13.00-II TRAPPING

13.00.040 Purpose

13.00.050 Violations

13.00.060 Permission

13.00.040 Purpose

It is the purpose of LEC 13.00.040 et seq., to preclude trapping except where specifically approved by the landowner.

(Code 1997, § 1310.01; Code 2007, § 130.30)

13.00.050 Violations

It shall be unlawful to:

- (a) Set traps within the city without the written permission of the fee owner or contract purchaser of the real property upon which the traps are to be set; permission from a tenant or person holding any other interest in the real property is not valid;
- (b) To set traps in any park or other public property except for public purposes upon order of the governmental body responsible for or owning the real property;
- (c) To place any trap within 500 feet of a building occupied by human beings, livestock, or domestic animals, without permission of the owner of the building;
- (d) To place traps within 200 feet of a public right-of-way for roads;
- (e) To set or place traps which do not have the trapper's name and either trapper's address or trapper's license number etched onto the trap or onto a metal tag which is welded, brazed, or soldered to the trap or affixed to the trap with a tightly twisted wire or solid metal ring; and/or
- (f) To set or place traps within 50 feet of the shoreline of any lake, swamp, stream, or other public water.

(Code 1997, § 1310.02; Code 2007, § 130.31)

13.00.060 Permission

The written permission must contain a statement allowing the trapper to place the traps, and:

- (a) Be signed by the fee owner or contract purchaser;
- (b) Be dated within six months; and
- (c) Contain a drawing, map, or diagram showing the boundaries of the landowner's real property.

(Code 1997, § 1310.03; Code 2007, § 130.32)

13-00-III NOISE CONTROL

13.00.070 Noise Prohibited

13.00.080 Measurement Of Noise

13.00.090 Construction Equipment

13.00.100 Outdoor Implement

13.00.110 Special Event

13.00.070 Noise Prohibited

It shall be unlawful to make, continue, or cause to be made or continued, any noise in excess of the noise levels set forth unless noise is reasonably necessary to preserve life, health, safety, or property.

(Code 1997, § 1370.01; Code 2007, § 130.45; Ord. No. 08-174, 5-2-2017)

13.00.080 Measurement Of Noise

Any activity not expressly exempted by this subchapter which creates or produces sound regardless of frequency exceeding the ambient noise levels of the property line of any property (or if a condominium or apartment house within any adjoining apartment) by more than six decibels above the ambient noise levels as designated by Minn. R. ch. 7030 shall be prohibited.

(Code 1997, § 1370.02; Code 2007, § 130.46; Ord. No. 08-174, 5-2-2017)

13.00.090 Construction Equipment

- (a) Purpose. The city understands that exceeding decibels above the ambient noise level is necessary from time to time in order to perform construction and make necessary improvements within the city. The following exemptions from ambient

noise levels outlines specific times during which such activity may take place.

- (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:

Heavy equipment means compactors/rollers, cranes, dozers, dump trucks, excavators, forklifts, graders, jackhammers, loaders, pavement breakers, pile drivers, portable crushers, tractors, trenchers, or other pieces of equipment that generate similar levels of noise.

Operated means and includes engine start-up or warm-up, or any activity involving heavy equipment that exceeds ambient noise levels.

- (c) Heavy equipment operated for the purpose of construction exceeding ambient noise levels may be operated between the hours of 7:00 a.m. to 7:00 p.m. on weekdays and on Saturdays from 8:00 a.m. to 6:00 p.m. No heavy equipment exceeding ambient noise levels at the property line may be operated on Sundays or state and federal holidays. No equipment shall be operated at any time if the sound level from the operation exceeds 100 decibels measured along any property line.
- (d) An exemption for activities which the city administrator finds are of urgent necessity and in the interest of public health and safety may be granted by written permission for the operation during any hour of any day for a period not to exceed three days or less while the emergency continues. Written permission may be renewed for periods of three days or less while the emergency continues.
- (e) Construction activity involving operation of equipment producing a sound level of up to 95 decibels that takes place no less than 1,200 feet in any direction from any dwelling may be allowed, through written permission granted by the city administrator, for operation during any hour of any day. Ambient noise levels must be maintained at the property line.

(Code 1997, § 1370.03; Code 2007, § 130.47; Ord. No. 08-174, 5-2-2017)

13.00.100 Outdoor Implement

Outdoor implements designed primarily for outdoor use, including, but not limited to, any power lawn mower, snowblower, power hedge clipper, or power saw, may be operated at any time.

(Code 1997, § 1370.04; Code 2007, § 130.48; Ord. No. 08-174, 5-2-2017)

13.00.110 Special Event

Activities which are issued a special event permit may exceed the maximum-allowed

decibel level provided sound is not unreasonably loud or creates a nuisance of disturbance to the peace and tranquility of the citizens.

(Code 2007, § 130.49; Ord. No. 08-174, 5-2-2017)

TITLE 100 FLOODPLAIN MANAGEMENT

[100.00.010 Statutory Authorization, Findings Of Fact And Purpose](#)

[100.00.020 General Provisions](#)

[100.00.030 Establishment Of Zoning Districts](#)

[100.00.040 Floodway District \(FW\)](#)

[100.00.050 Flood Fringe District \(FF\)](#)

[100.00.060 General Floodplain District](#)

[100.00.070 Subdivisions](#)

[100.00.080 Public Utilities, Railroads, Roads And Bridges](#)

[100.00.090 Manufactured Homes And Manufactured Home Parks And Placement Of Recreational Vehicles](#)

[100.00.100 Administration](#)

[100.00.110 Nonconforming Uses](#)

[100.00.120 Amendments](#)

[100.00.130 Penalty](#)

Editor's note—A Flood Insurance Rate Map has been published for the community and the regulatory floodway boundary is shown on this map. A separate Flood Boundary and Floodway Map has not been published.

100.00.010 Statutory Authorization, Findings Of Fact And Purpose

(a) *Statutory authorization.* The state legislature has, in M.S.A. chs. 103F and 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the city does ordain as follows:

(b) *Findings of fact.*

- (1) *Adverse effects on the public health, safety, and general welfare.* The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) *Methods used to analyze flood hazards.* This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the state department of natural resources.
- (3) *National Flood Insurance Program compliance.* This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR parts 59--78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

- (c) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in subsection (b) of this section by provisions contained herein.

(Code 2007, § 152.01; Ord. No. 08-023, 1-26-2010)

100.00.020 General Provisions

- (a) *Lands to which chapter applies.* This chapter shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the floodway, flood fringe, or general floodplain districts.
- (b) *Establishment of official zoning map.* The official zoning map, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this chapter. The attached material shall include the Flood Insurance Study for Washington County, Minnesota and Incorporated Areas and Flood Insurance Rate Map panels therein numbered 27163C0261E, 27163C0262E, 27163C0265E, 27163C0266E, 27163C0267E, 27163C0268E and 27163C0269E, all dated February 3, 2010 and prepared by the Federal Emergency Management Agency. The official zoning map shall be on file in the offices of the city administrator.
- (c) *Regulatory flood protection elevation.* The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- (d) *Interpretation.*
- (1) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
 - (2) The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the zoning administrator, the board of adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier,

and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the board of adjustment and to submit technical evidence.

- (e) *Abrogation and greater restrictions.* It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
- (f) *Warning and disclaimer of liability.* This chapter 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 chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
- (g) *Severability.* If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- (h) *Definitions.* Unless specifically defined in LEC 1.08, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.
- (i) *Annexations.* The flood insurance rate map panels adopted by reference in subsection (b) of this section may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this chapter, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of annexation into the city.

(Code 2007, § 152.02; Ord. No. 08-023, 1-26-2010)

100.00.030 Establishment Of Zoning Districts

(a) Districts.

- (1) *Floodway district.* The floodway district shall include those areas designated as floodway on the flood insurance rate map adopted in LEC 100.00.020(b).
- (2) *Flood fringe district.* The flood fringe district shall include those areas designated as floodway fringe. The flood fringe district shall include those areas shown on the flood insurance rate map as adopted in LEC 100.00.020(b) as being within Zone AE but being located outside of the

floodway.

- (3) *General floodplain district.* The general floodplain district shall include those areas designated as Zone A or Zone AE without a floodway on the flood insurance rate map adopted in LEC 100.00.020(b).

(b) *Compliance.* No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway, flood fringe and general floodplain districts, all uses not listed as permitted uses or conditional uses in LEC 100.00.040 through LEC 100.00.060, respectively, shall be prohibited. In addition, a caution is provided here that:

- (1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically LEC 100.00.090.
- (2) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically LEC 100.00.110.
- (3) As-built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in LEC 100.00.100.

(Code 2007, § 152.03; Ord. No. 08-023, 1-26-2010)

100.00.040 Floodway District (FW)

(a) *Permitted uses.*

- (1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- (2) Industrial-commercial loading areas, parking areas, and airport landing strips.
- (3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single- or multiple-purpose recreational

trails.

- (4) Residential lawns, gardens, parking areas, and play areas.

(b) Standards for floodway permitted uses.

- (1) The use shall have a low flood damage potential.
- (2) The use shall be permissible in the underlying zoning district.
- (3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(c) Conditional uses.

- (1) Structures accessory to the uses listed in subsection (a) of this section and the uses listed in this subsection (c).
- (2) Extraction and storage of sand, gravel, and other materials.
- (3) Marinas, boat rentals, docks, piers, wharves, and water control structures associated with said uses.
- (4) Railroads, streets, bridges, utility transmission lines, and pipelines.
- (5) Storage yards for equipment, machinery, or materials.
- (6) Placement of fill or construction of fences.
- (7) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of LEC 100.00.090(c).
- (8) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

(d) Standards for floodway conditional uses.

- (1) All uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- (2) All floodway conditional uses shall be subject to the procedures and standards contained in LEC 100.00.100(d).
- (3) The conditional use shall be permissible in the underlying zoning district.

(4) Fill.

- a. Fill, dredge spoil, and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
- b. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
- c. As an alternative, and consistent with subsection (d)(4)b of this section, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which ensures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the county recorder.

(5) Accessory structures.

- a. Accessory structures shall not be designed for human habitation.
- b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
 - 1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - 2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- c. Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the state building code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards:

1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
2. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and
3. To allow for the equalization of hydrostatic pressure, there must be a minimum of two automatic openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(6) Storage of materials and equipment.

- a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(7) Structural works for flood control that will change the course, current or cross-section of protected wetlands or public waters shall be subject to the provisions of M.S.A. ch. 103G. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

(8) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(Code 2007, § 152.04; Ord. No. 08-023, 1-26-2010)

100.00.050 Flood Fringe District (FF)

(a) *Permitted uses.* Permitted uses shall be those uses of land or structures listed as

permitted uses in the underlying zoning use district. If no pre-existing, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a permitted use in the flood fringe district provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for flood fringe district permitted uses listed in subsection (b) of this section and the standards for all flood fringe uses listed in subsection (e) of this section.

(b) Standards for flood fringe permitted uses.

- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.
- (2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally floodproofed in accordance with LEC 100.00.040(d)(5)c.
- (3) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with subsection (b)(1) of this section.
- (4) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- (5) The provisions of subsection (e) of this section shall apply.

(c) Conditional uses. Any structure that is not elevated on fill or floodproofed in accordance with subsections (b)(1) and (2) of this section and/or any use of land that does not comply with the standards in subsections (b)(3) and (4) of this section shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in subsections (d) and (e) of this section and LEC 100.00.010.

(d) Standards for flood fringe conditional uses.

- (1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

- a. The enclosed area is above-grade on at least one side of the structure;
- b. It is designed to internally flood and is constructed with flood-resistant materials; and
- c. It is used solely for parking of vehicles, building access or storage.

The above-noted alternative elevation methods are subject to the following additional standards:

1. *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.

2. *Specific standards for above-grade, enclosed areas.* Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate: "A minimum area of "automatic" openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above-grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters without any form of human intervention"; and "That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and shall be used solely for building access, parking of vehicles or storage."

(2) Basements, as defined in LEC 1.08, shall be subject to the following:

- a. Residential basement construction shall not be allowed below the

regulatory flood protection elevation.

- b. Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection (d)(3) of this section.

(3) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the state building code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.

(4) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted consistent with LEC 105.04.740 and LEC 105.04.770. The plan must be prepared and certified by a registered professional engineer.

(5) *Storage of materials and equipment.*

- a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city prior to the placement of any materials or equipment within the flood fringe district.

(6) The provisions of subsection (e) of this section shall also apply.

(e) *Standards for all flood fringe uses.*

(1) All new principal structures must have vehicular access at or above an elevation not more than one foot below the regulatory flood protection elevation. If a variance to this requirement is granted, the board of adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

- (2) Commercial uses. Accessory land uses, such as yards, railroad tracks, and parking lots, may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.
- (3) Manufacturing and industrial uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection (e)(2) of this section. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
- (4) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- (5) Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.
- (6) Standards for recreational vehicles are contained in LEC 100.00.090(c).
- (7) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(Code 2007, § 152.05; Ord. No. 08-023, 1-26-2010; Ord. No. 08-024, 4-20-2010)

100.00.060 General Floodplain District

(a) *Permissible uses.*

- (1) The uses listed in LEC 100.00.040(a) shall be permitted uses.
- (2) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to subsection (b) of this section. LEC 100.00.040 shall apply if the proposed use is in the floodway district and LEC 100.00.050 shall apply if the proposed use is in the flood fringe district.

(b) *Procedures for floodway and flood fringe determinations within the general floodplain district.*

- (1) Upon receipt of an application for a permit or other approval within the general floodplain district, the applicant shall be required to furnish such of the following information as is deemed necessary by the zoning administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe district:
 - a. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - b. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
 - c. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
 - d. Documentation of soil types and soil limitations on the subject site.
 - e. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- (2) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minn. R. 1983, parts 6120.5000--6120.6200 and 44 CFR part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective department of natural resources area hydrologist and watershed district prior to commencing the analysis. The designated engineer or expert shall:

- a. Estimate the peak discharge of the regional flood.
 - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries. For the mapped lake and wetland basins within the city as shown on the flood insurance rate map panels adopted in LEC 100.00.020(b), the floodway shall be that area of the floodplain below the ordinary high water level, as defined in M.S.A. § 103G.005, subd. 14, provided that:
 1. Compensating floodwater storage is provided below the 100-year flood elevation; or
 2. A determination is made that any resultant increase in stage to the 100-year flood level due to loss of floodwater storage below the 100-year flood level meets the criteria for acceptable stage increase spelled out in this section.
- (3) The zoning administrator shall present the technical evaluation and findings of the designated engineer or expert to the city council. The city council must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary or deny the permit application. The city council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the department of natural resources or the planning commission for review and comment. Once the floodway and flood fringe district boundaries have been determined, the city council shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of LEC 100.00.040 and LEC 100.00.050.

(Code 2007, § 152.06; Ord. No. 08-023, 1-26-2010)

100.00.070 Subdivisions

- (a) *Review criteria.* No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall be able to contain a building site outside

of the floodway district at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than one foot below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

- (b) *Floodway/flood fringe determinations in the general floodplain district.* In the general floodplain district, applicants shall provide the information required in LEC 100.00.060(b) to determine the 100-year flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.
- (c) *Removal of special flood hazard area designation.* The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(Code 2007, § 152.07; Ord. No. 08-023, 1-26-2010)

100.00.080 Public Utilities, Railroads, Roads And Bridges

- (a) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be floodproofed in accordance with the state building code or elevated to above the regulatory flood protection elevation.
- (b) *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain shall comply with LEC 100.00.040 and LEC 100.00.050. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Limited access roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- (c) *On-site sewage treatment and water supply systems.*
 - (1) Where public utilities are not provided:
 - a. On-site water supply systems must be designed to minimize or

eliminate infiltration of floodwaters into the systems; and

- b. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and they shall not be subject to impairment or contamination during times of flooding.

- (2) Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

(Code 2007, § 152.08; Ord. No. 08-023, 1-26-2010)

100.00.090 Manufactured Homes And Manufactured Home Parks And Placement Of Recreational Vehicles

- (a) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by LEC 100.00.070.
- (b)
 - (1) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with LEC 100.00.050. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with LEC 100.00.050(e)(1), then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the governing body.
 - (2) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- (c) Recreational vehicles that do not meet the exemption criteria specified in subsection (c)(1) of this section shall be subject to the provisions of this chapter and as specifically spelled out in subsections (c)(3) and (4) of this section.
 - (1) Exemption. Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in subsection (c)(2) of this section and, further, they meet the following criteria:
 - a. Have current licenses required for highway use.

- b. Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
- c. The recreational vehicle and associated use must be permissible in any preexisting, underlying zoning use district.

(2) Areas exempted for placement of recreational vehicles:

- a. Individual lots or parcels of record.
- b. Existing commercial recreational vehicle parks or campgrounds.
- c. Existing condominium type associations.

(3) Recreational vehicles exempted in subsection (c)(1) of this section lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the recreational vehicle or exceeding \$500.00 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the use of land restrictions specified in LEC 100.00.040 and LEC 100.00.050. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood-free location should flooding occur.

(4) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:

- a. Any new or replacement recreational vehicle will be allowed in the floodway or flood fringe districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with LEC 100.00.050(e)(1). No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.
- b. All new or replacement recreational vehicles not meeting the criteria of subsection (c)(4)a of this section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of LEC 100.00.100(d). The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be

prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of subsections (c)(1)a and b of this section will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with LEC 100.00.080(c).

(Code 2007, § 152.09; Ord. No. 08-023, 1-26-2010)

100.00.100 Administration

- (a) *Zoning administrator.* A zoning administrator or other official designated by the governing body shall administer and enforce this chapter. If the zoning administrator finds a violation of the provisions of this chapter, the zoning administrator shall notify the person responsible for such violation in accordance with the procedures stated in LEC 100.00.130.
- (b) *Permit requirements.*
 - (1) *Permit required.* A permit issued by the zoning administrator in conformity with the provisions of this chapter shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - (2) *Application for permit.* Application for a permit shall be made to the zoning administrator on forms furnished by the zoning administrator and shall include the following, where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
 - (3) *State and federal permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the zoning administrator shall determine that the applicant has obtained all necessary state and federal permits.
 - (4) *Certificate of zoning compliance for a new, altered, or nonconforming use.* It shall be unlawful to use, occupy, or permit the use or occupancy of any

building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the zoning administrator stating that the use of the building or land conforms to the requirements of this chapter.

- (5) *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by LEC 100.00.130.
- (6) *Certification.* The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Floodproofing measures shall be certified by a registered professional engineer or registered architect.
- (7) *Record of first floor elevation.* The zoning administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The zoning administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are floodproofed.
- (8) *Notifications for watercourse alterations.* The zoning administrator shall notify, in riverine situations, adjacent communities and the commissioner of the department of natural resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to M.S.A. ch. 103G, this shall suffice as adequate notice to the commissioner of natural resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- (9) *Notification to FEMA when physical changes increase or decrease the 100-year flood elevation.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

(c) *Board of adjustment.*

- (1) *Rules.* The board of adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such board by state law.
- (2) *Administrative review.* The board of adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter in accordance with this section.
- (3) *Variances.* The board of adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only when the applicable criteria of the zoning code is met. In the granting of such variance, the board of adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this chapter, any other zoning regulations in the city, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - a. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - b. Variances shall only be issued by a community upon:
 1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 3. 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.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) *Hearings.* Upon filing with the board of adjustment of an appeal from a decision of the zoning administrator, or an application for a variance, the board of adjustment shall fix a reasonable time for a hearing and give due

notice to the parties in interest as specified by LEC 3.08.010. The zoning administrator shall submit by mail to the commissioner of natural resources a copy of the application for proposed variances sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing.

(5) *Decisions.* The board of adjustment shall arrive at a decision on such appeal or variance in accordance with the procedures prescribed in the zoning code. In passing upon an appeal, the board of adjustment may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the zoning administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance, the board of adjustment may prescribe appropriate conditions and safeguards, such as those specified in subsection (d)(5) of this section, which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under LEC 100.00.130. A copy of all decisions granting variances shall be forwarded by mail to the commissioner of natural resources within ten days of such action.

(6) *Appeals.* Appeals from any decision of the board of adjustment may be made, as specified in LEC 3.08.010 and also by state statutes.

(7) *Flood insurance notice and recordkeeping.* The zoning administrator shall notify the applicant for a variance that:

- a. 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 on insurance coverage; and
- b. Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the National Flood Insurance Program.

(d) *Conditional uses.* Applications for a conditional use permit shall be submitted to the zoning administrator in accordance with the procedural requirements of the zoning code.

(1) *Hearings.* Upon filing with the city an application for a conditional use

permit, the zoning administrator shall submit by mail to the commissioner of natural resources a copy of the application for proposed conditional use sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing.

(2) *Decisions.* In granting a conditional use permit the city shall prescribe appropriate conditions and safeguards, in addition to those specified in subsection (d)(5) of this section, which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this chapter punishable under LEC 100.00.130. A copy of all decisions granting conditional use permits shall be forwarded by mail to the commissioner of natural resources within ten days of such action.

(3) *Procedures to be followed by the city in passing on conditional use permit applications within all floodplain districts.*

a. The applicant is required to submit the following information and additional information as deemed necessary by the city council for determining the suitability of the particular site for the proposed use:

1. Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel; and

2. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

b. The zoning administrator shall transmit one copy of the information described in subsection (d)(3)a of this section to the city engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

c. Based upon the technical evaluation of the designated engineer or expert, the city shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(4) *Factors upon which the decision of the city shall be based.* In passing

upon conditional use applications, the city shall consider all relevant factors specified in other sections of this chapter, and:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- e. The importance of the services provided by the proposed facility to the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- l. Such other factors which are relevant to the purposes of this chapter.

(5) *Conditions attached to conditional use permits.* Upon consideration of the factors listed above and the purpose of this chapter, the city shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

- a. Modification of waste treatment and water supply facilities.
- b. Limitations on period of use, occupancy, and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.

- d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- e. Floodproofing measures, in accordance with the state building code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(Code 2007, § 152.10; Ord. No. 08-023, 1-26-2010)

100.00.110 Nonconforming Uses

A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in LEC 1.08 under substantial improvement, shall be subject to the provisions of subsection (a) through (e) of this section.

- (a) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
- (b) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in subsections (c) and (f) of this section.
- (c) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of LEC 100.00.040 and LEC 100.00.050 for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively.
- (d) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.

- (e) If any nonconforming use or structure is substantially damaged, as defined in LEC 1.08, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in LEC 100.00.040 through LEC 100.00.060 will apply depending upon whether the use or structure is in the floodway, flood fringe or general floodplain district, respectively.
- (f) If a substantial improvement occurs, as defined in LEC 1.08, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of LEC 100.00.040 or LEC 100.00.050 for new structures, depending upon whether the structure is in the floodway or flood fringe district, respectively.

(Code 2007, § 152.11; Ord. No. 08-023, 1-26-2010)

100.00.120 Amendments

- (a) The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the commissioner of natural resources if he determines that, through other measures, lands are adequately protected for the intended use.
- (b) All amendments to this chapter, including amendments to the official zoning map, must be submitted to and approved by the commissioner of natural resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The commissioner of natural resources must be given ten days' written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the chapter amendment or technical study under consideration.

(Code 2007, § 152.12; Ord. No. 08-023, 1-26-2010)

100.00.130 Penalty

- (a) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.
- (b) Nothing herein contained shall prevent the city from taking such other lawful

action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:

- (1) In responding to a suspected chapter violation, the zoning administrator and city may utilize the full array of enforcement actions available to it, including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct chapter violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- (2) When a chapter violation is either discovered by or brought to the attention of the zoning administrator, the zoning administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate department of natural resources and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.
- (3) The zoning administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the zoning administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the zoning administrator may either:
 - a. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
 - b. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.
- (4) If the responsible party does not appropriately respond to the zoning administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter and shall be prosecuted accordingly. The zoning administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of this chapter.

(Code 2007, § 152.99; Ord. No. 08-023, 1-26-2010)

TITLE 103 SUBDIVISION REGULATIONS

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103.00.010 Regulations Established

No land shall be subdivided, nor shall any land be platted, in the city except as provided by this title.

(Ord. No. 08-205, § 1(153.01), 4-3-2018)

103.00.020 Generally

- (a) *Purpose.* The city adopts this title in order to provide for orderly, economic, and safe development of land, to provide the necessary urban services and facilities, and to promote the public health and safety of the city through the establishment of minimum regulations governing the subdivision of land. It is the intent of the city to protect the right of landowners to put their land to its highest and best use and protect each owner's right to full beneficial use of their land to accomplish enjoyment without detriment to the public interest.
- (b) *Intent.* The city establishes these regulations with the intent to:
 - (1) Implement the comprehensive plan;
 - (2) Ensure that subdivisions are consistent with all applicable plans, laws, and regulations;

- (3) Provide for the orderly subdivision of land and to ensure proper legal descriptions and monumentation of subdivided land;
 - (4) Ensure that adequate public infrastructure, facilities, and services are available concurrent with development;
 - (5) Conserve and protect the natural resources and scenic beauty of the city;
 - (6) Require subdividers to furnish land, install infrastructure, and provide appropriate mitigation measures to ensure that development provides for all required improvements;
 - (7) Promote a safe and effective transportation system including roadways, pedestrian pathways, and transit opportunities;
 - (8) Prevent inappropriate subdivisions including premature subdivision; excess subdivision resulting in overcrowding of land and undue concentration of structures; partial or incomplete subdivision; or scattered or piecemeal subdivisions; and
 - (9) Establish standard requirements, conditions, and procedures for the design and review of subdivisions.
- (c) *Scope.* The provisions of this title apply to any division of a tract of land into two or more parcels for the purpose of transfer of ownership, building development, or tax assessment purposes by platting, re-platting, registered land survey, conveyance, sale, contract for sale or any other means by which a beneficial interest in land is transferred or any means by which a tract of land is divided into two or more parcels for tax assessment purposes, except those divisions:
- (1) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
 - (2) Creating cemetery lots; or
 - (3) Resulting from court orders.
- (d) *Approval necessary for acceptance of subdivision plats.* Before any plat or subdivision shall be recorded or be of any validity, it shall be referred to the planning commission and approved by the city council as having fulfilled the requirements of this title.
- (e) *Building permits.* No building permits shall be issued for the construction of any building, structure, or improvement to any land or lot in a subdivision, as defined in this title, until all requirements of this title have been satisfied, with the following exceptions:
- (1) Building permits may be issued for model homes after approval of the

final plat by the city council upon receipt of a signed development agreement. The issuance of building permits for model homes shall be in accordance with the signed development agreement.

- (2) The developer shall agree in writing to indemnify and hold harmless the city for damages that may occur as a result of the model home construction prior to the required improvements being completed.
- (3) No certificate of occupancy shall be issued by the city until all applicable requirements set forth by the development agreement have been met.
- (4) Traffic and parking arrangements relating to model homes shall be subject to the city's review and approval.

(f) *Conflicts.* Whenever there is a difference between minimum standards or dimensions required by this title or other ordinances of the city, the most restrictive standards of dimensions shall apply.

(g) *Floodplain management.*

- (1) No land shall be subdivided which is held unsuitable by the city council for reason of flooding, inadequate stormwater drainage, steep slopes, inadequate water supply, or inadequate wastewater treatment facilities. All lots within the floodplain shall contain a building site with a lowest floor elevation that is at least two feet above the regulatory flood protection elevation. All subdivisions shall have water and sewage (wastewater) disposal facilities that comply with the provisions of this title and shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. (Also refer to LEC 103.00.025, premature subdivisions.)
- (2) In the general floodplain district, applicants shall provide the information required in LEC 100.00.100. The city council shall evaluate the subdivision in accordance with procedures established in this title and standards contained in LEC 100.00.070.

(h) *Consistency with comprehensive plan and zoning district.* Subdivision of property shall be in compliance with the city's comprehensive plan and zoning district in which the property is located.

(Ord. No. 08-205, § 1(153.02), 4-3-2018; Ord. No. 08-239, § 3(153.02), 2020; Ord. No. 08-247(1), § 1, 2021)

103.00.025 Premature Subdivision Prohibited

Any plat or other subdivision of property may be denied by the city council if it is deemed by the city council to be premature for development pursuant to the criteria listed below. Any proposed plat or subdivision of property may be denied by the city council if it is

deemed by the city council to be premature for development. The burden of proof shall be on the subdivider to demonstrate to the city council that the proposed subdivision is not premature for development. The city may deem a subdivision premature if any of the following conditions exist:

- (a) *Inconsistent with the comprehensive plan.* A proposed plat or subdivision may be deemed premature if the subdivision is inconsistent with the goals, purposes, policies, phasing, or other requirements of the comprehensive plan. An application for a comprehensive plan amendment may be made concurrently with an application for a plat or subdivision approval; however, a plat or subdivision application will not be considered for approval by the city council until and unless any necessary comprehensive plan amendment is approved by the city council.
- (b) *Inconsistent with the city capital improvement program.* A proposed plat or subdivision may be deemed premature if it is inconsistent with the city's capital improvement program. A proposed plat or subdivision is inconsistent with the city's capital improvement program if public improvements, facilities, or services such as recreational facilities or police and fire protection that must be provided at public's expense that are necessary to accommodate the proposed plat or subdivision will not be able to be reasonably provided within two years of the date of the plat or subdivision application.
- (c) *Lack of adequate water supply.* Unless the city has guided the site of the proposed plat or subdivision as rural by the comprehensive plan, a proposed plat or subdivision may be deemed premature if municipal water is not available to serve the proposed subdivision if it is developed to its maximum permissible density without causing and unreasonable depreciation of existing municipal water supplies. The term "available" shall mean existing or readily extended and funded consistent with the phasing in the comprehensive plan, the capital improvement program, and any relevant city ordinances, plans, and policies. If the site of the proposed plat or subdivision is guided as rural by the comprehensive plan, a proposed subdivision shall be deemed premature with respect to a lack of adequate water supply if a private well or wells cannot adequately or safely serve the proposed subdivision.
- (d) *Lack of adequate waste disposal systems.* Unless the city has guided the site of the proposed plat or subdivision as rural by the comprehensive plan, a proposed plat or subdivision may be deemed premature if municipal sanitary sewer is not available or is not adequate in size to serve the proposed subdivision if developed to its maximum permissible density as indicated in the comprehensive plan. The term "available" shall mean existing or readily extended and funded consistent with the phasing in the comprehensive plan, the capital improvement program, and any relevant city ordinances, plans, and policies. If the site of the proposed plat or subdivision is guided as rural by the comprehensive plan, a proposed subdivision may be deemed premature if a private subsurface sewage

treatment system or systems cannot adequately serve the proposed subdivision.

- (e) *Lack of adequate streets.* A proposed plat or subdivision may be deemed premature if public streets to serve the proposed plat or subdivision are not available. The term “available” shall mean existing or readily extended and funded consistent with the phasing in the comprehensive plan, the capital improvement program, and any relevant city ordinances, plans, and policies. In addition, a proposed plat or subdivision may be deemed premature if the traffic volume generated by the proposed plat or subdivision would create a hazard to public safety and the general public welfare or the streets are inadequate for the intended uses such that the subdivision would create unacceptable levels of traffic congestion on existing or proposed streets as determined by the city engineer.
- (f) *Lack of adequate drainage.* A proposed plat or subdivision may be deemed premature if municipal or private surface water management facilities are not available to meet minimum local, watershed, and state treatment requirements including downstream infrastructure to manage stormwater. The term “available” shall mean existing or readily constructed and funded consistent with the phasing in the comprehensive plan, the capital improvement program, and any relevant city ordinances, plans, and policies. In addition, a proposed plat or subdivision may be deemed premature in cases where flood plains, poor soils, or steep slopes exist in such a manner as to preclude adequate site drainage or treatment of surface water runoff, cause pollution of water sources, or damage from erosion would occur on downhill or downstream land.
- (g) *Inconsistent or not compliant with state environmental statutes and rules.* A proposed plat or subdivision may be deemed premature if it is not in compliance or is not consistent with the state’s environmental statutes and rules, set forth in M.S.A. Ch. 116D and Minn. R. Part 4410.

(Ord. No. 08-247(1), § 2(153.025), 2021)

103.00.030 Definitions

Unless specifically defined in this title, common definitions, words, and phrases used in this title shall be interpreted so as to give them the same meaning as they have in common usage throughout this Code and are found in LEC 1.08.

(Ord. No. 08-205, 1(153.03), 4-3-2018)

103.00.040 Registered Land Survey

No registered land survey of lands in the city shall be recorded with the registrar of titles until the registered land survey has been approved by the city. The approval shall be indicated by resolution endorsed on or attached to the registered land survey signed by the mayor and city clerk. No registered land survey shall be approved by the city or

signed by the officers if the recording of the registered land survey will result in a subdivision in violation of any provision, regulation, or requirement of this title.

(Ord. No. 08-205, § 1(153.04), 4-3-2018)

103.00.050 Conveyance By Metes And Bounds And Other Unapproved Descriptions

- (a) No conveyance of lands to which the regulations contained in this title are applicable shall be made and no conveyance of land to which the regulations contained in this title are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after October 3, 1968, or to an unapproved plat made after October 3, 1968.
- (b) The foregoing provision does not apply to a conveyance if the land described:
 - (1) Was a separate parcel of record prior to or on October 3, 1968, or as to lands within the jurisdictional boundaries of the old village prior to its consolidation with the Town of East Oakdale if the land was a separate parcel of record June 4, 1974;
 - (2) Was the subject of a written agreement to convey, entered into prior to October 3, 1968;
 - (3) Is a single parcel of land having not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of a parcel into two or more lots or parcels any one of which is less than 20 acres in area or 500 feet in width; and/or
 - (4) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width.

(Ord. No. 08-205, § 1(153.05), 4-3-2018; Ord. No. 08-239, § 3(153.05), 2020)

103.00.060 Lot Consolidation/Lot Line Adjustment

- (a) *Purpose and intent.* The lot consolidation/lot line adjustment process provides a simple administrative procedure for the consolidation of two or more lots into one parcel, or to adjust a common lot line affecting existing parcels. In areas that are well defined and land descriptions are simple, the city may permit the conveyance of land using metes and bounds descriptions or without the preparation and recording of a plat. In areas which are not well defined, or where lots are irregular in shape and/or are included in more than one plat, the city may

require that lot consolidation/lot line adjustment occur through the major or minor subdivision platting requirements of this title.

- (b) *Criteria for lot line adjustment/lot consolidation.* Lot line adjustments exempted from platting by M.S.A. § 462.352, subd. 12 shall not require a plat or replat and may be administratively approved, provided all of the following are met:
- (1) Each resultant parcel equals or exceeds the minimum lot dimension requirements and public road frontage requirements for the zoning district in which the property is located or is made more conforming through the lot line adjustment;
 - (2) The lot line adjustment does not create additional lots.
 - (3) The lot line adjustment shall not cause any structure on the property to be made non-conforming or in violation of the zoning ordinance codified in LEC title 105 or any other provisions of this Code.
 - (4) All resultant parcels shall have frontage and access on an existing improved street or access to an existing improved street protected by a restrictive covenant approved by the city attorney which includes the city as a beneficiary.
 - (5) The resulting parcels shall generally conform to the shape, character, and area of existing or anticipated land subdivisions in the surrounding areas.
 - (6) Any such lot line adjustment shall not require any public improvements.
 - (7) Any easements that become unnecessary as a result of the combination of parcels must be vacated. A request to vacate easements shall be made concurrently with the application for lot consolidation/lot line adjustment. Review of the easement vacation request, including any public hearings and city council action, shall be completed before action may be taken on the application for lot consolidation/lot line adjustment.
 - (8) New easements shall be established as appropriate.
- (c) *Subdivision of property for public purpose.* Alternatively, the subdivision of property resulting from acquisition by governmental agencies for public improvements or uses may be processed in the same manner as a lot line adjustment or lot consolidation.
- (d) *Submittal requirements.* Requests for lot line adjustments or lot consolidation shall be filed with the zoning administrator on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The application shall be considered as being officially submitted and complete when the applicant has

complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

- (1) A fee as set forth by the city's adopted fee schedule;
 - (2) Detailed written and graphic materials fully explaining the proposed lot line adjustment;
 - (3) A legal description of the parcel which is being subdivided and legal descriptions for each of the resulting parcels; and, in regard to lot line adjustments, legal descriptions for the adjusted or consolidated parcels;
 - (4) A written description stating the reason for the request;
 - (5) A land survey prepared by and signed by a registered land surveyor describing the lot line adjustment and showing all buildings, driveways, easements, setbacks, and other pertinent information including the legal descriptions herein required;
 - (6) A title search showing ownership of the property and any existing deed restrictions; and
 - (7) Other information shall be provided as may be reasonably requested by the city staff.
- (e) *Review of lot line adjustment or lot consolidation.* A completed application shall be reviewed administratively by the zoning administrator, who shall make a written finding in regard to the provisions of subsection (b) of this section. The zoning administrator's approval shall be conditioned upon recording of documents which effectuate the lot line adjustment or lot consolidation and any other conditions deemed necessary to ensure compliance with the zoning code. Unless a request for additional review time is requested by the zoning administrator, action on the application shall be taken within 60 days after a complete application is submitted. Prior to the issuance of any development permits, and no later than 60 days after administrative review and approval, the applicant shall provide the zoning administrator with recorded documents or recorded document numbers for the deeds of conveyance which effectuate the lot line adjustment or lot consolidation. Failure to provide the required verifications within the required time shall invalidate the zoning administrator's approval.
- (f) *Certification of taxes paid.* Prior to approval of an application for a lot line adjustment or lot consolidation, the applicant shall provide certification to the city that there are no delinquent property taxes, special assessments, interest, or city utility fees due upon the parcel of land to which the lot line adjustment or lot consolidation application relates.

(Ord. No. 08-205, § 1(153.06), 4-3-2018)

103.00.065 Lot Divisions

The city planning director may approve administratively the subdivision of one lot or parcel into two or three lots where no public infrastructure, easements or rights-of-way are being dedicated. The following requirements must be met before the city may approve an administrative lot division:

- (a) The submittal of the required land use application and fee.
- (b) The submittal of proof of ownership.
- (c) The submittal of a current certificate of survey, prepared and signed by a state licensed land surveyor, depicting the following:
 - (1) Graphic scale of the survey (engineering scale only, not less than one-inch equals 50 feet).
 - (2) North arrow.
 - (3) Date of the survey.
 - (4) Existing legal description of the parcel of land to be subdivided.
 - (5) Existing parcel boundaries shown with survey measurement data matching the legal description of the parcel of land.
 - (6) Area in square feet and in acres of the parcel of land to be subdivided.
 - (7) Existing site improvements within the subject property and those within 50 feet of the boundaries of the parcel to be subdivided.
 - (8) All encroachments along the outside boundary of the parcel of land to be subdivided.
 - (9) All easements of record affecting the parcel of land to be subdivided.
 - (10) Basins, lakes, rivers, streams, creeks, wetlands and other waterways bordering on or running through the parcel of land to be subdivided. The ordinary high water elevation and the 100-year flood elevation shall be shown where applicable.
 - (11) The location, right-of-way widths and names of public streets or other public ways, showing type, width and condition of improvements, if any, that pass through and/or adjacent to the parcel of land being subdivided.
 - (12) Location, right-of-way widths and names of any railroad, if any, that pass through or are adjacent to the parcel of land being subdivided.
 - (13) The location, type and size of any public infrastructure (sanitary sewer, water, storm sewer) that is located on or adjacent to the parcel of land being subdivided.
 - (14) Identify all gaps and overlaps of the property being subdivided.
 - (15) The outside boundary of the property being subdivided must be clearly

marked survey monumentation.

- (16) The boundary shown with survey measurement data and proposed legal description for each of the lots as they are proposed to be subdivided.
 - (17) The boundary and legal description of any proposed easements on the property. The owner must provide a ten-foot-wide drainage and utility easement along all property lines. The city also may require a drainage and utility easement over wetlands, wetland buffers, stormwater basins, lakes, drainage channels and tributaries.
 - (18) The city also may require the dedication of easements or right-of-way for public streets consistent with the city's comprehensive plan.
 - (19) If the owner is proposing residential lots that would use on-site septic systems, then the owner must provide documentation that each lot would have enough area for a primary and secondary on-site septic system along with the proposed location of the houses, driveways and wells for each of those lots.
- (d) A lot division shall not result in the creation of more than three lots.
- (e) The planning director may approve or cause to be modified plans for a lot division. The director must first determine, however, that the plans meet all city ordinances and policies and that the lot division proposal would not have an adverse impact on the subject property or surrounding properties. If the director makes a negative determination about the proposed lot division or if the applicant wishes to appeal the decision, the case shall be sent to the planning commission for review and recommendation and to the city council for action.
- (f) The city may require a letter of credit as a condition of a lot division in order to guarantee the proper repair and patching of streets after the installation of or connection to utilities in the streets or in the public rights-of-way.
- (g) The city shall not approve more than three new lots from a parcel or tract in any single calendar year.
- (h) The owner must record the deeds for the lot division with the county within 180 days of city approval of a lot division, or the lot division shall be no longer valid.

(Ord. No. 08-239, § 3(153.065), 2020)

103.00.070 Minor Subdivisions

- (a) *Purpose and intent.* The purpose of a minor subdivision process is to allow the city to waive certain procedures and requirements of a major subdivision. The purpose is to reduce the time and cost to the property owner for dividing land in locations and situations that are well defined and where no new public infrastructure is required. The minor subdivision process allows for concurrent

review and approval of a preliminary and final plat.

(b) *Criteria for minor subdivision.* A minor subdivision is a division of land which results in no more than four parcels wherein:

- (1) Each resultant parcel meets all applicable requirements of the zoning code, including, but not limited to, density, lot size, lot width, and minimum frontage on a public road, unless a variance has been approved according to the procedures set forth in LEC 103.00.110.
- (2) No new public rights-of-way or streets shall be necessary for or created by the subdivision.
- (3) Streets, utility easements, drainage easements or public park land or cash in lieu of land shall be dedicated or fees paid in lieu of dedication as required by the city.
- (4) All wetland areas and state department of natural resources protected waters shall be protected with a conservation easement up to the 100-year flood level.
- (5) The minor subdivision complies with all applicable requirements of the road authority, including access spacing and location criteria for sight distances if located adjacent to a state or county highway, and/or of the watershed districts in which it is located.

(c) *Submittal requirements.* Requests for minor subdivision shall be filed with the zoning administrator on an official application form. The applicant's signature shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of four large-scale copies and ten reduced scale (11-inch by 17-inch) copies of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

- (1) An application fee as set forth by the city's adopted fee schedule.
- (2) Detailed written and graphic materials fully explaining the proposed minor subdivision.
- (3) List of property owners located within 350 feet of the subject property in a format prescribed by the zoning administrator.
- (4) A preliminary plat prepared by a registered land surveyor in the form required by M.S.A. ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor, which includes:

- a. Graphical scale not more than one-inch equals 100 feet.
- b. North point indication.
- c. Original and proposed lot boundaries.
- d. Topographic data at two-foot contours.
- e. Existing and resulting parcel legal descriptions.
- f. Buildable area on each lot and proposed building pad.
- g. The location of existing structures on the site.
- h. Existing and proposed driveway locations.
- i. Existing easement locations.
- j. Existing parks, streets and utility easements.
- k. Delineated wetlands and water bodies, including ordinary high water elevations and floodplain boundaries as applicable.
- l. Sewage treatment systems and/or well locations.
- m. Location and size of existing sewers, water mains, wells, culverts, or other underground utilities within the tract and to a distance of 150 feet beyond the tract; the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown.

(5) Drainage, grading and erosion control plans, if applicable.

(6) Existing and proposed lowest floor elevations for each lot.

(7) Soil testing for the installation of subsurface sewage treatment system, if applicable.

(8) If driveways to a state or county highway are required, driveway permits or a letter of intent to approve said driveways from the applicable road authority.

(9) Any additional information if deemed necessary and required by the zoning administrator. The zoning administrator may waive for good cause certain information requirements not pertinent to the particular minor subdivision request.

(d) Review of minor subdivision.

(1) Review by staff and other commissions or jurisdictions. The city shall refer copies of the preliminary plat to the city engineer, planner, attorney, the parks commission, and the appropriate county, state, or other public agencies for their review and comment. The zoning administrator shall

instruct the appropriate staff persons to prepare technical reports, where appropriate, and to provide general assistance in preparing a recommendation on the action to the planning commission and council.

- (2) Public hearing set. Upon receipt of a complete application, the zoning administrator shall set a public hearing following proper hearing notification. The planning commission shall conduct the hearing, and report its findings and make recommendation to council. Notice of said hearing shall consist of a legal property description and a description of the request, which shall be published in the official newspaper at least ten days prior to the hearing and written notification of said hearing shall be mailed at least ten days prior to the hearing to all owners of land within 350 feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this title.
 - (3) The planning commission shall make a finding of fact and recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this title.
 - (4) The city council shall not approve a minor subdivision until it has received a report and recommendation from the planning commission and city staff, or until 60 days after the first regular planning commission meeting at which the request was considered.
 - (5) Approval of a minor subdivision shall require passage of a resolution by a majority vote of a quorum of the city council.
 - (6) Prior to certification by the city of the approval of the minor subdivision, the applicant shall submit the final plat for signature, supply the easement documents granting the city any easements required by the city using the city's standard form of easement and pay any required recording or other fees.
 - (7) Whenever an application for a minor subdivision has been considered and denied by the city council, a similar application for a minor subdivision affecting substantially the same property shall not be considered again by the planning commission or the city council for at least six months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the entire city council.
- (e) *Recording of the minor subdivision.* If the minor subdivision is approved by the council, the subdivider shall record it with the county recorder or registrar of titles within 180 days after the approval. If not recorded within 180 days, approval of the minor subdivision shall be considered void, unless a request for a time extension is submitted in writing and approved by the council. The subdivider shall, immediately upon recording, furnish the zoning administrator with copies of the recorded documents which effectuate the minor subdivision. No building

permits shall be issued for construction of any structure on any lot within the approved minor subdivision until the city has received evidence of the plat being recorded by the county.

- (f) *Financial guarantee.* Following the approval of a minor subdivision as required by this section and prior to the issuing of any building permits or the commencing of any work, the applicant may be required to submit a financial guarantee to the city to ensure the completion of any improvements as shown on the approved plans and as required as a condition of minor subdivision approval.
- (g) *Certification of taxes paid.* Prior to approval of an application for a minor subdivision, the applicant shall provide certification to the city that there are no delinquent property taxes, special assessments, interest, or city utility fees due upon the parcel of land to which the minor subdivision application relates.

(Ord. No. 08-205, § 1(153.07), 4-3-2018; Ord. No. 08-239, § 3(153.07), 2020; Ord. No. 08-247(1), § 3, 2021)

103.00.080 Major Subdivisions, Pre-Application Conference

- (a) *Purpose and intent.* In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this title and the requirements or limitations imposed by other city ordinances or plans, prior to the development of a preliminary plat, applicants are required to attend a pre-application conference with city staff (including, but not limited to, the planning director and the city engineer) to review and discuss the proposed subdivision.
 - (1) *Pre-application conference.* Before filing of an application for a major subdivision with the city, the applicant of the proposed major subdivision shall arrange for and attend a pre-application conference with the planning director, city engineer and other city staff. The primary purpose of the pre-application conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this section before incurring substantial expense in the preparation of plans, surveys and other data.
 - (2) *Prerequisite.* No application for a major subdivision will be accepted by the city unless an applicant's proposal is distinctly similar to one reviewed by city staff in the required pre-application conference.
- (b) *Submittal requirements.* Requests for pre-application conference and staff review of a major subdivision shall be filed with the zoning administrator on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall

provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of four large-scale copies and ten reduced scale (11-inch by 17-inch) copies of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

- (1) An application fee as set forth by the city's adopted fee schedule.
- (2) Detailed written and graphic materials fully explaining the proposed major subdivision.
- (3) List of property owners located within 350 feet of the subject property in a format prescribed by the zoning administrator.
- (4) A scaled drawing which includes:
 - a. Locations of boundary lines in relation to a known section, quarter section, or quarter quarter section line comprising a legal description of the property.
 - b. Graphical scale not less than one-inch equals 100 feet.
 - c. Data and north point.
 - d. Existing conditions.
 1. Boundary line of proposed subdivision, clearly indicated;
 2. Existing zoning classification for land within and abutting the subdivision;
 3. A statement on the acreage and dimensions of the lots;
 4. Location widths and names of existing or previously platted streets or other public ways, showing type, width, and conditions of improvements, if any, railroad and utility rights-of-way, parks and other open spaces, permanent buildings and structures, easements in section and corporate lines within the tract and to a distance of 150 feet beyond the tract;
 5. Location and size of existing sewers, water mains, wells, culverts, or other underground utilities within the tract and to a distance of 150 feet beyond the tract; the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown;
 6. Boundary lines of adjoining unsubdivided or subdivided land, within 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the

subdivider;

7. Topographic data, including contours at vertical intervals of not more than five feet; watercourses, marshes, rock outcrops, power transmission poles and lines and other significant features shall also be shown; National Geodetic Vertical Datum (NGVD) shall be used for all topographic mapping;
8. The subdivider may be required to file a report prepared by a registered civil engineer or soil scientist on the feasibility of on-site sewer and water systems on each lot; the report shall include a soil borings analysis and a percolation test to verify conclusions;
9. Buildable area on each lot and proposed building pad;
10. Existing and proposed driveway locations;
11. Existing parks, streets and easement locations; and
12. Delineated wetlands and water bodies, including ordinary high water elevations and floodplain boundaries as applicable.

e. Proposed design features.

1. Layout of proposed streets showing right-of-way widths, centerline grade, typical cross-sections, and proposed names of streets in conformance with all applicable city ordinances and policies; the name of any street used in the city or its environs shall not be used unless the proposed street is the logical extension of an already named street, in which event the same name shall be used. The names and number shall comply with the county uniform street numbering system.
2. Areas other than streets, pedestrian ways, and utility easement, intended to be dedicated or reserved for public use, including the size of the areas in acres.
3. Provision for surface water disposal, drainage, and flood control within the boundaries of the proposed property division consistent with LEC 105.04.740, stormwater management and erosion and sediment control.

f. Supplementary information. The supplementary information as shall reasonably be deemed necessary by city staff including, but not limited to:

1. Proposed protective covenants;
2. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwellings and type of business or industry, so as to review the effect of the development on traffic, fire hazards, and congestion of population;
3. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. The proposed zoning plans shall be for information only and not vest any rights in the application for use other than residential;
4. A statement showing the proposed density with the method of calculating said density shall also shown;
5. Where the subdivider owns property adjacent to that which is being proposed for division, the city may require that the subdivider submit a sketch plan or ghost plat of the remainder of the property so as to show the possible relationship between the proposed division and a future subdivision. All subdivisions shall be reasonably consistent with the existing or potential adjacent subdivisions; and
6. Where structures are to be placed on large or excessively deep lots, which are subject to replat, the development subdivision plans shall indicate placement of structures so that lots may be further subdivided, in addition to a sketch plan that illustrates a way in which the lots can possibly be resubdivided.

(c) *Pre-application plan review.* The pre-application plan for the proposed subdivision shall be reviewed by city staff. The city staff review of the proposed subdivision plan is to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this subchapter. The applicant shall not construe any of the information provided by city at this point in the review process as an approval or denial of the proposed subdivision but rather as information to guide the applicant through the next steps in the city review process for the applicant's proposal.

(Ord. No. 08-205, § 1(153.08), 4-3-2018; Ord. No. 08-239, § 3(153.08), 2020; Ord. No. 08-247(1), § 4, 2021)

103.00.090 Preliminary Major Subdivisions (Preliminary Plat)

(a) *Submittal requirements.* Requests for preliminary plat approval may be filed with the zoning administrator on an official application form after the applicant has attended a pre-application conference with city staff and has received comments about the proposed subdivision from the city as outlined in LEC 103.00.080. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of four-large scale copies and ten reduced scale (11-inch by 17-inch) copies of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

- (1) A fee as set forth by the city's adopted fee schedule.
- (2) Detailed written and graphic materials fully explaining the proposed major subdivision.
- (3) List of property owners located within 350 feet of the subject property in a format prescribed by the zoning administrator.
- (4) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions; in any case, the name must be approved by the county recorder.
- (5) Location of boundary lines in relation to a known section, quarter section, or quarter quarter section lines comprising a legal description of the property.
- (6) Names and addresses of all persons having any interest in the property, the developer, designer, and surveyor together with the interested person's registration number.
- (7) Graphic scale of preliminary plat prepared by a registered land surveyor in the form required by M.S.A. ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor not less than one inch to 100 feet.
- (8) Data and north point.
- (9) Date of preparation.
- (10) Existing conditions.
 - a. Boundary line of proposed subdivision, clearly indicated;

- b. Existing zoning classifications for land within and abutting the subdivision;
- c. A general statement on the approximate acreage and dimensions of the lots;
- d. Location, widths, and names of all existing or previously platted streets or other public ways, showing type, width, and condition of improvements, if any, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of 150 feet beyond the tract;
- e. Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of 150 feet beyond the tract; the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown;
- f. Boundary lines of adjoining unsubdivided or subdivided land, within 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;
- g. Topographic data, including contours at vertical intervals of not more than two feet; watercourses, marshes, rock outcrops, power transmission poles and lines, and other significant feature shall also be shown; National Geodetic Vertical Datum (NGVD) shall be used for all topographic mapping; and
- h. In major subdivisions where public water and sewer are not available, the city engineer may require the subdivider to file a report prepared by a soil scientist or a registered civil engineer on the feasibility of on-site sewer and water systems on each lot. The report shall include a soil boring analysis and percolation tests to verify conclusions.

(11) Proposed design features.

- a. Layout of proposed streets showing right-of-way widths, centerline grade, typical cross-sections, and proposed names of streets in conformance with all applicable city ordinances and policies. The names and numbers shall comply with the county uniform street naming and property numbering system, with the following exceptions: Unless a newly proposed street directly extends from an existing street, no street name that already exists in the city or its environs shall be used, regardless if it is on the same grid as another street.
- b. North-south avenues shall follow the grid system, increasing alphabetically from east to west, but must use different names.

- c. East-west streets shall follow the grid numbering system as appropriate, but a different suffix such as Lane, Place, Way, etc., or a different prefix such as Upper or Lower shall be used.
 - 1. The names of deflecting streets shall not vary; names of continual streets shall not change, even if the street changes direction, unless an intersection exists.
 - 2. The names of deflecting streets shall be determined according to their relation to an arterial or collector street if appropriate, otherwise such names shall be determined according to their main point of entry in to a development or as deemed appropriate by council.
 - 3. If appropriate, names with the same theme (i.e., flowers, nature) are permitted for naming streets in an entire subdivision.
 - 4. All street names shall end with the directional suffix of North.
- d. Locations and widths of proposed alleys and pedestrian ways.
- e. Locations and size of proposed sewer lines and water mains.
- f. Layout, numbers, lot areas, and preliminary dimensions of lots and blocks.
- g. Building pads shall be shown to demonstrate minimum front and side street building setback lines.
- h. When lots are located on a curve, the width of the lot at the building setback line shall be shown.
- i. Areas, other than streets, alleys, pedestrian ways, and utility easements intended to be dedicated or reserved for public use, including the size of the area or areas in acres. This shall include areas planned for trails and parks within the city.
- j. Area calculations of lots, rights-of-way, streets, public highways, alleys, parks and public trails, wetland and wetland buffers and other features with accurate dimensions.
- k. Water mains shall be provided to serve the subdivision by extension of any existing community system wherever feasible. Service connections shall be stubbed into the property line and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the city. In areas where public water supply is not available, well plans must

comply with applicable state regulations and shall be submitted for the approval of the city building official.

- l. Sanitary sewer mains and service connections shall be installed in accordance with the standards established by the city.
- m. All private sewage treatment systems shall be installed in accordance with standards established by the city. Demonstration of two separate and distinct 10,000 square foot contiguous land areas, suitable for septic drainfields, is required.
- n. Surface water disposal, drainage, and flood control shall be provided within the boundaries of the proposed property division consistent with LEC 105.04.740, stormwater management and erosion sediment control.
- o. Location of 100-year floodplain areas and floodway districts from existing adopted maps or data.
- p. A line or contour representing the ordinary high water level, the toe and the top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(12) Supplementary information. The following supplementary information shall be submitted when deemed necessary by the city:

- a. Written statement explaining changes or modifications to the sketch plan.
- b. Proposed protective covenants.
- c. An accurate soil survey of the subdivision prepared by a qualified person. In areas of questionable soil conditions, percolation tests at the rate of no fewer than two successful test results for each proposed septic disposal area (a total of four tests per proposed lot) may be required on a lot-by-lot basis to determine the suitability of any particular site for building.
- d. A statement prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing.
- e. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and/or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.
- f. If any zoning changes are contemplated, the proposed zoning plat for the areas, including dimensions, shall be shown.
- g. Where the subdivider owns property adjacent to that which is

being proposed for the subdivision, the planning commission may require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. All subdivisions shall be shown to relate well with existing or potential adjacent subdivisions.

- h. Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the subdivider shall provide in the preliminary plat, a sketch plan which indicates minimum building setback lines and future roadway alignments which would not interfere with structural placement at the time of future subdivision.
- i. A vegetation preservation and protection plan, consistent with LEC 105.12.470, that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted.
- j. Developer shall provide a landscape plan, signed by a licensed landscape architect, which shows the placement of ponding, berms, trees, and tree seedlings, shrubs, and shrub seedlings and native grasses.
 - 1. Landscape plans shall adhere to all requirements of LEC 105.12.480 and shall include the city's landscape standard notes.
 - 2. Irrigation plans shall be submitted and be in compliance with city general irrigation standards.
- k. If the development is an open space preservation development, architectural and performance standards shall be submitted. If applicable, developments within the I-94 corridor and Old Village shall submit architectural renderings in order to ensure compliance with city design guidelines and standards.
- l. Any environmental review, such as an environmental assessment worksheet, as required by state statutes. If an environmental review is required, the preliminary plat application cannot proceed until the review or study is complete.

(13) Other information. Other information shall be provided as may be reasonably requested by the city staff, planning commission, or council.

(b) *Preliminary major subdivision review.*

(1) Review by staff and other commissions or jurisdictions. The city shall

refer copies of the preliminary plat to the city engineer, planner, attorney, the park commission, and the appropriate county, state, or other public agencies, including, but not limited to, the state department of transportation and/or the county if the application abuts a county road or highway or county state-aid highway, and/or the department of natural resources (DNR) if the application is within a shoreland overlay district and/or floodplain management district, for their review and comment. The zoning administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the planning commission and council.

- (2) Comment must be received within 30 days or it will be assumed there are no objections.

(c) *Public hearing set.* Upon receipt of a complete application, the zoning administrator shall set a public hearing following proper hearing notification. The planning commission shall conduct the hearing and report its findings and recommendations to the council. The administrator shall give notice of the hearing. The notice shall consist of a property description and a description of the request. The notice shall be published in the official newspaper at least ten days prior to the date of the hearing and written notification of the hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question. The planning commission, at its discretion, may direct that notification be sent to property owners at distances of greater than 350 feet. The failure of any property owner to receive notice shall not invalidate the proceedings set forth in this title.

(d) *Planning commission action.*

- (1) The planning commission shall make a finding of fact and recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this title. The planning commission shall have the authority to request additional information from the subdivider concerning the proposal, as deemed necessary to formulate a recommendation on the proposal.
- (2) The planning commission shall recommend approval of the preliminary plat if it in all ways conforms to the city's comprehensive plan and development code. The commission shall recommend denial of the preliminary plat if it makes any of the following findings:
 - a. That the proposed subdivision is in conflict with the city's comprehensive plan, development code, capital improvements program, or other policy or regulation.
 - b. That the physical characteristics of the site, including, but not limited to, topography, vegetation, susceptibility to erosion and

siltation, susceptibility to flooding, water storage, and retention, are such that the site is not suitable for the type or intensity of development or use contemplated.

- c. That the design of the subdivision or the proposed improvements are likely to cause substantial and irreversible environmental damage.
- d. That the design of the subdivision or the type of improvements will be detrimental to the health, safety, or general welfare of the public.
- e. That the design of the subdivision or the type of improvement will conflict with easements on record or with easements established by judgment of a court.
- f. That the subdivision is premature as determined by the standards of this title.

(e) *City council action.*

- (1) The council shall act upon the preliminary plat after it has received a report and recommendation from the planning commission and the city staff, or until 60 days after the first regular planning commission meeting at which the request was considered. The council shall have the option of receiving additional testimony if it so chooses. An application for preliminary plat shall be approved or denied within 120 days from the date of its official and complete submission unless extended pursuant to statute or a time waiver is granted by the subdivider.
- (2) If the preliminary plat is not approved by the council, the reasons for the action shall be recorded in the proceedings of the council and transmitted to the applicant. If the preliminary plat is approved, the approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this title to be indicated on the final plat. The council may require revisions in the preliminary plat and final plat as it deems necessary for the public health, safety, general welfare, and convenience.

(f) *Effect of approval.* For one year following preliminary plat approval, unless the subdivider and city agree otherwise, no amendment to the comprehensive plan or other official controls shall apply to or affect the use, development density, lot size, or lot layout that was approved.

(g) *Effect of denial.* If a preliminary plat application is denied by the city council, a similar application for a preliminary plat affecting substantially the same property shall not be considered again by the planning commission or city council for at

least six months from the date of its denial.

- (h) *Submission of final plat; request for extension.* If the preliminary plat is approved by the council, the subdivider must submit the final plat within 180 days after the approval, or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the council. Such request for an extension shall include the following:
- (1) An explanation for why a final plat has not been applied for;
 - (2) What, if any, good faith efforts have been made to complete the platting process; and
 - (3) The anticipated completion date.

The council may approve up to two such extensions of not more than one additional year per extension.

(Ord. No. 08-205, § 1(153.09), 4-3-2018)

103.00.100 Final Major Subdivisions

- (a) *Submittal requirements.* Requests for final plat approval may be filed with the zoning administrator on an official application form following approval of a preliminary plat. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of four-large scale copies and ten reduced scale (11-inch by 17-inch) copies of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.
- (1) A fee as set forth by the city's adopted fee schedule.
 - (2) A written summary of how all conditions of preliminary plat approval have been met.
 - (3) Written statement explaining changes or modifications to the preliminary plat.
 - (4) Final plat including the following information:
 - a. Name of the subdivision;
 - b. Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision;

- c. The location of monuments shall be shown and described on the final plat;
 - d. Location and area calculations of lots, rights-of-way, streets, public highways, alleys, parks and trails, wetland and wetland buffers and other features with accurate dimensions;
 - e. Lots shall be numbered clearly; blocks are to be numbered, with numbers shown clearly in the center of the block;
 - f. The exact locations, widths, and names of all streets to be dedicated;
 - g. Location, width and use of all easements to be dedicated;
 - h. Certification by a registered land surveyor in the form required by M.S.A. ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor;
 - i. Scale of plat (the scale to be shown graphically on a bar scale), date, and north point;
 - j. Statement dedicating all easements;
 - k. Statement dedicating all streets, utility easements, and other public areas not previously dedicated; and
 - l. Certificate for approval by the city planning commission and the council. The certificate shall be prepared for the signatures of the chair and secretary of the city planning commission, and the mayor and administrator.
- (5) Final grading and drainage plan, appropriately labeled, using a copy of the current certificate of survey as a base for the site in question and prepared and signed by a state licensed engineer, depicting the following information:
- a. North arrow and date of preparation.
 - b. Graphic scale (engineering scale only, not less than one inch equals 50 feet).
 - c. For each lot, provide lot and block numbers, building pad location, building type and proposed building first floor elevation, low floor elevation and elevation at garage slab.
 - d. Stormwater management plan, with a narrative, including the configuration of drainage areas and calculations that meet the requirements of this Code and/or applicable watershed standards.
 - e. Location of all natural features on the tract. Natural features are considered to include, but are not limited to, the following: tree

lines, wetlands, ponds, lakes, streams, drainage channels, bluffs, steep slopes, etc.

- f. All delineated wetlands and watercourse buffers per the city and watershed standards; and wetland replacement plan, if needed.
- g. Location of all existing storm sewer facilities, including pipes, manholes, catch basins, ponds, swales, and drainage channels, within 150 feet of the tract. Existing pipe type, grades, rim and invert elevations and normal and high water elevations must be included.
- h. Normal water level (NWL) and 100-year high water level (100-year HWL) for all water bodies, existing and proposed.
- i. Spot elevations at drainage break points and emergency overflows (in boldface type) with directional arrows indicating site, swale and lot drainage.
- j. Retaining walls (wall heights and elevations).
- k. Locations, grades, rim and invert elevations of all storm sewer facilities, including ponds and BMPs proposed to serve the tract.
- l. Locations and elevations of all street high and low points.
- m. Street grades shown.
- n. Provide phasing plan for site grading.
- o. All soil erosion and sediment control measures to be incorporated during and after construction must be shown. Locations and standard detail plates for each measure must be included on the plan using city standard details. Plan must meet the requirements of MPCA general permit construction activity.
- p. All revegetation measures proposed for the tract, including seed and mulch types and application rates, must be included on the plan.
- q. Existing contours at two-foot intervals shown as dashed lines (may be prepared by a state licensed surveyor). Existing contours shall extend 150 feet outside of the tract.
- r. Proposed grade elevations at two-foot intervals shown as solid lines.
- s. Other information as required and outlined in the city plan sheet format requirements.

(6) Final utility plan, appropriately labeled, prepared and signed by a state licensed engineer, depicting the following:

- a. Easement locations, dimensions, and purposes.
 - b. Underground and overhead facilities.
 - c. Proposed utility plans, including sanitary sewer, watermain, and storm sewer, all in accordance with the city engineer design standards manual.
- (7) Final street and storm sewer plan, appropriately labeled, prepared and signed by a state licensed engineer, depicting the following information:
- a. Layout of proposed streets showing the proposed lot lines, right-of-way widths, and proposed street names, in accordance with the city's street naming policy, as outlined in LEC 103.00.090(a)(11)a.
 - b. Locations and widths of proposed streets, alleys and pedestrian-ways.
 - c. Location, dimensions and purpose of all easements.
 - d. Annotation of street geometrics for all horizontal curves, tangent lengths and corner radii.
 - e. Centerline profile and gradients for all streets, with vertical geometrics annotated on the plan profiles.
 - f. Typical cross-section of proposed street improvements.
 - g. Minimum front and side street building setback lines.
 - h. When lots are located on a curve, the width of the lot at the building setback line.
 - i. For any non-single-family residential development, location and number of off-street parking spaces (guest, handicapped, bicycle, motorcycle, etc.), including typical dimensions of each.
 - j. Other information as required and outlined in the city plan sheet format requirements.
- (8) Final tree preservation and landscape plans.
- (9) Other written materials. The application form shall be accompanied by, or address, the following written materials:
- a. Lot size for all lots and outlots in tabular form.
 - b. Area calculations of lots, rights-of-way, streets, public highways, alleys, parks and public trails, wetland and wetland buffers and other features with accurate dimensions.
 - c. Cost estimates for grading and all public improvements.

- d. A copy of any proposed homeowners' association documents, private covenants or deed restrictions.
- e. Commitment for title insurance.
- f. If a common interest community (CIC) is created, the developer shall provide proof that a replacement reserve amount was created in accordance with M.S.A. § 515B.3-1141.

(b) *Review of final plat.*

- (1) The application shall be in substantial compliance with the approved preliminary plat, including any modifications required as a condition of preliminary plat approval. Pursuant to M.S.A. § 462.358, an application for a final plat shall be approved or denied within 60 days of the date from the date of its official and complete submission unless extended pursuant to statute or a time waiver is granted by the subdivider.
- (2) Review by staff and other commissions or jurisdictions. The city shall refer copies of the preliminary plat to the city engineer, planner, attorney, the park commission, and the appropriate county, state, or other public agencies, including, but not limited to, the state department of transportation and/or the county if the application abuts a county road or highway or county state-aid highway, and/or the department of natural resources (DNR) if the application is within a shoreland overlay district and/or floodplain management district, for their review and comment. The zoning administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the planning commission and council.
- (3) Planning commission action. After review of the final plat by the staff, the planning commission shall review the final plat for substantial compliance with the approved preliminary plat and make recommendation to council.
- (4) City council action. The final plat shall be approved or disapproved within 60 days after the filing of the final plat by resolution and conditioned upon the execution of the development agreement for basic improvements, public dedication, security, and other requirements determined necessary or appropriate by the council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the council and reported to the applicant.
- (5) The resolution approving the plat shall authorize the mayor and administrator to execute an endorsement of approval for the city. The mayor and administrator shall not execute the endorsement until any development agreement or security required by the resolution of the approval has been approved in writing by the city attorney.

- (6) Special assessments. When any existing special assessments which have been levied against the property described are to be divided and allocated to the respective lots in the proposed plat, the engineer shall estimate the cost of preparing a revised assessment roll, filing the assessment roll with the county auditor, and making the division and allocation. Upon approval by the council of the cost, the cost shall be paid to the city.
- (7) Recording final plat. If the final plat is approved by the council, the subdivider shall record it with the county recorder within 120 days after the approval. If not filed within 120 days, approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the council. The subdivider shall, immediately upon recording, furnish the administrator with two paper prints and one reproducible film positive of the plat showing evidence of the recording. No building permits shall be issued for construction of any structure on any lot in the plat until the city has received evidence of the plat being recorded by the county.

(Ord. No. 9705, 5-6-1997; Ord. No. 08-205, § 1(153.10), 4-3-2018)

103.00.110 Variances; Standards, Platting

- (a) *Purpose.* The city may grant a variance from the minimum standards required by this title as they apply to specific property where unusual hardship on the land exists. Variances may be granted only upon the specific grounds set forth in this section. In granting any variance, the planning commission may recommend, and the council shall prescribe, the conditions as it deems necessary and desirable to protect the public interests. In no case shall any of the procedural requirements of this title be waived, nor shall a variance be deemed to permit any waiver or avoidance of the procedural requirements.
- (b) *Planning commission review.* No variance shall be granted until the matter has been considered by the planning commission. In making its recommendations and making the findings set forth in subsection (c) of this section, the planning commission shall take into account the nature of the proposed use of land and 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 would have on traffic conditions in the vicinity of the proposed subdivision.
- (c) *Findings.* A variance shall be granted only where the council finds the variance is in harmony with the general purposes and intent of this title and when the variance is consistent with the comprehensive plan. The applicant also must establish that there is an unusual hardship in complying with this title. The term “unusual hardship” as used in connection with the granting of a variance means

as follows:

- (1) That the property owner proposes to use the property in a reasonable manner not permitted by this title;
- (2) The plight of the property owner is due to circumstances unique to the property not created by the property owner; and
- (3) The variance, if granted, will not alter the essential character of the locality.

(Ord. No. 08-205, § 1(153.11), 4-3-2018; Ord. No. 08-247(1), § 5, 2021)

103.00.120 Variance Procedures

- (a) *Application.* Requests for a variance from the city's subdivision regulations set forth in this title shall be filed with the zoning administrator on an official application form. The application shall be accompanied by a fee as established from time to time by resolution of the council. The application shall also be accompanied by detailed written and graphic materials necessary for the explanation of the request. The application also shall include all information required for variances set forth in LEC 105.12.320(c) of the zoning code.
- (b) *Hearing.* The planning commission shall hold a public hearing on the variance request.
- (c) *Appearance of the applicant before the planning commission.* The applicant or a representative of the applicant shall appear before the planning commission in order to answer questions concerning the proposed variance request.
- (d) *Findings.* The planning commission shall make the findings set forth in LEC 103.00.110(c) and make the considerations set forth in LEC 103.00.110(b) and make its recommendation to the city council.
- (e) *Approval/denial.* Upon receiving the report and recommendation of the planning commission, the city council shall approve or deny the request for a variance. The city council shall not approve or deny a variance until it has received the report and recommendation from the planning commission, unless no report and recommendation is received from the planning commission and 30 days have passed since the application was deemed complete by the city. The city council shall approve or deny the request for a variance no later than 60 days after the application was deemed complete by the city unless a time extension is permitted by M.S.A. § 15.99.
- (f) *Written findings.* The city council shall make written findings of fact in granting or denying any application for a variance. In granting any variance, the city council shall impose any condition on its approval of the variance that it considers necessary in order to protect the public health, safety, or welfare.

- (g) *Notification of decision.* The administrator shall notify the applicant of the council's decision in writing. If the city council denies the variance, the notification must include a statement of the reasons for denial.

(Ord. No. 08-205, § 1(153.12), 4-3-2018; Ord. No. 08-247(1), § 6, 2021)

103.00.130 Planned Unit Developments (PUDs)

- (a) Upon receiving a report from the planning commission, the council may grant exceptions from the provisions of these regulations in the case of a planned unit development, provided that the council finds that the proposed development is fully consistent with the purpose and intent of these regulations and in compliance with the planned unit development objectives as identified in LEC 105.12, art. XVII.
- (b) This provision is intended to provide the necessary flexibility for new land planning and land development trends and techniques.

(Ord. No. 08-205, § 1(153.13), 4-3-2018)

103.00.140 Engineering Design Standards; Required Improvements

Submittals must meet plan sheet format requirements set forth by the city engineering design standards.

(a) *Blocks.*

- (1) In general, intersecting streets, determining block lengths, shall be provided at the intervals as to serve cross traffic adequately and to meet existing streets. Where no existing plats control the blocks in residential subdivisions, blocks shall not be less than 600 feet nor more than 1,800 feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than 900 feet, pedestrian ways and/or easements through the block may be required near the center of the block. Blocks for business or industrial use may vary from the elements of design contained in this section if the nature of the use requires other treatment.
- (2) The width of the block shall normally be sufficient to allow two tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of the width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.
- (3) Blocks for commercial and industrial areas may vary from the elements of design contained in this section if the nature of the use requires other treatment. In those cases, off-street parking for employees and customers shall be provided along with safe and convenient limited access to the

street system. Space for off-street loading shall also be provided with similar access. Extension of roads, railroad access rights-of-way, and utilities shall be provided as necessary.

(b) *Lots.*

- (1) *Area.* The minimum lot area, width, and depth shall not be less than that established by the zoning code in effect at the time of adoption of the final plat.
- (2) *Corner lots.* Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the zoning code.
- (3) *Side lot lines.* Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- (4) *Frontage.* Every lot must have a minimum frontage on a public street accepted for maintenance purposes by the city (or to be accepted upon completion of construction by the applicant), other than an alley, as required in the zoning code. No subdivision shall be permitted which will result in a lot with less than the minimum frontage on a public street as required by the zoning code except where a variance is granted as provided by this title. In no case shall a variance to this frontage requirement be granted which would permit access to a lot by means of an easement or private road except as provided in LEC 103.00.110.
- (5) *Setback lines.* Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the zoning code.
- (6) *Watercourses.* Lots abutting a watercourse, drainageway, channel, or stream shall have additional depth and width, as required under the provisions of the zoning code for the shoreland and wetland system districts.
- (7) *Features.* In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots, or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- (8) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots or planned as outlots, rather than allowed to remain as unusable parcels.
- (9) *Frontage on two streets.* Double frontage, or lots with frontage on two parallel streets, shall not be permitted except where lots back on arterial streets or highways, or where topographic or other conditions render subdividing otherwise unreasonable. Double frontage lots shall have an

additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.

- (10) *Turn-around access.* Where proposed residential lots abut a collector or arterial street, they should be platted in a manner as to encourage turn-around access and egress on each lot.
- (11) *Minimum lot line.* No lot shall have a total width at the front or rear lot line of less than 30 feet.
- (12) *Large lot planning.* In any area where lots are platted in excess of 24,000 square feet or 160 feet in width at the minimum building setback line, a preliminary resubdivision plan may be required showing a potential and feasible way in which the lot or lots may be resubdivided in future years for more intensive use of the land. The placement of buildings or structures upon the lots shall allow for potential resubdivision.

(c) *Shoreland.*

- (1) *Land suitability.* No land shall be subdivided which is held unsuitable by the city for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitation for development, severe erosion potential, inadequate water supply or sewage disposal capabilities.
- (2) *Review by commissioner of natural resources.* All plats within a shoreland district shall be reviewed by the commissioner before approval by the city may be granted. Review shall require that the proposed plats be received by the commissioner at least ten days before a hearing is called by the city for consideration of approval of a preliminary plat.
- (3) *Copies of plats supplied to commissioner.* Copies of all plats within shoreland areas shall be submitted to the commissioner within ten days of final approval by the city.

(d) *Easements.*

- (1) *Width and location.* An easement for utilities at least ten feet wide shall be provided along all lot lines. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots. See LEC 105.04.770(a)(2)e for other applicable easement regulations.
- (2) *Continuous utility easement locations.* Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not subsequently be changed without the approval of the council after a public hearing.
- (3) *Provisions for drainage.* Easements shall be provided along each side of

the centerline of any watercourse or drainage channel whether or not shown in the comprehensive plan, to a width sufficient in the judgment of the council to provide proper maintenance and protection and to provide for stormwater runoff and installation and maintenance of storm sewers. They shall be dedicated to the city by appropriate language in the owner's certificate. See LEC 105.04.770(a)(2)e for other applicable easement regulations.

- (e) *Erosion and sediment control.* Erosion and sediment control plans shall be provided in accordance with LEC 105.04.770(b).
- (f) *Drainage.* A complete and adequate drainage system design, in accordance with the watershed district, LEC 105.04.770(a), and local stormwater management plan, approved by the city engineer, shall be required for the subdivision.
- (g) *Monuments for plats.*
 - (1) Official monuments, as designated or adopted by the county surveyor's office or approved by the county district court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the city engineer. The boundary line of the property to be included with the plat must be fully dimensioned, all angles of the boundary excepting the closing angle to be indicated, all monuments and surveyor's irons to be indicated, each angle point of the boundary perimeter to be so monumented.
 - (2) Twenty-four-inch long pipes or steel rods shall be placed at each lot and at each intersection of street centerlines. All United States, state, county, or other official bench marks, monuments, or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat.
 - (3) A second monumentation shall be required following the final grading and completion of streets, curbs and utility improvements for a plat in order to ensure that all irons and monuments are correctly in place.
 - (4) Proof of the final monumentation shall be in the form of a surveyor's affidavit that the monumentations complete. The surveyor's affidavit shall be submitted to:
 - a. The county;
 - b. Surveyor's office; and
 - c. The city;within one year from the date of recording the plat.

(h) *Sanitary sewer and water distribution and public utilities.*

- (1) Sanitary sewers and water facilities shall be installed in accordance with the standards and specifications as provided for in the city's comprehensive sewer plan and water supply and distribution report, and other city plans, and shall be subject to the review and approval of the city engineer.
- (2) Where city water facilities are not available for extension into the proposed subdivision, the council may, by ordinance, grant a franchise for the water facilities, to serve all properties within a subdivision where a complete and adequate neighborhood water distribution system is designed in conjunction with the subdivision, and complete plans for the system are submitted for the approval of the council.
- (3) Where city sewer and water facilities are not available for extension into proposed subdivision, the council may permit the use of water and sewer systems in accordance with all appropriate state and local regulations.
- (4) Telephone, electric, and/or gas service lines are to be placed underground in accordance with the provisions of all applicable city ordinances and standards. Exceptions to this requirement may be granted by action of the council.

(i) *Streets, alleys, and curbs.* The design of streets, alleys, and curbs shall conform to the city engineering design standards.

- (1) *Streets, continuous.* Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic 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.
- (2) *Local streets and dead-end streets.* Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Temporary and permanent cul-de-sacs shall be designed in conformance with the city engineering design standards.
- (3) *Street plans for future subdivisions.* Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan for a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

- (4) *Provisions for resubdivision of large lots and parcels.* When a tract is subdivided into larger than normal building lots or parcels, the lots or parcels shall be arranged to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for the resubdivision.
- (5) *Subdivisions abutting collector or minor arterial streets.* Wherever a proposed subdivision abuts or contains an existing or planned collector or minor arterial street as designated on the city's thoroughfare plan, the lots shall access onto local streets wherever possible. Local streets may be existing or provided with the subdivision.
- (6) *Alleys.* Except in the case of a planned unit development, either a public or private alley may be required in a block where commercially zoned property abuts a major thoroughfare or a major street. Alleys in residential areas other than those zoned for multiple-family use shall not be permitted.
- (7) *Half streets.* Dedication of half streets shall not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.
- (8) *Adding width to existing streets.* Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet standards set forth in the city engineering design standards and/or other applicable standards.
- (9) *Additional right-of-way and roadway widths.* Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use.
- (10) *Street improvements for plats.*
 - a. The city engineer shall determine when the full width of the right-of-way shall be graded, including the subgrade in accordance with the provisions for construction as outlined in the city engineering design standards.
 - b. All streets shall be improved in accordance with the standards and specifications for street construction established by the council.
- (11) *Curb and gutter.* Curb and gutter shall be provided when required in accordance with the city engineering design standards.

- (12) *Conformity of proposed streets.* Proposed streets shall conform to the state, county, or local road plans or preliminary plans as have been prepared, adopted and/or filed.
- (j) *General improvements.* The following shall be installed in accordance with the city engineering design standards manual and all other applicable city standards:
- (1) Trees and boulevard sodding.
 - (2) Streets signs shall be installed at each intersection.
 - (3) Driveway approaches, sidewalks, or pedestrian pathways.
 - (4) Street lighting fixtures.
 - (5) Sidewalks are required on one side of all streets. The council may require sidewalks along both sides of all streets in areas where the residential density equals or exceeds three dwelling units per net acre of land or in any commercial, industrial, or other business areas if the council determines that sidewalks are required for public safety.

(Ord. No. 08-205, § 1(153.14), 4-3-2018)

103.00.150 Park Land Dedication Requirements

- (a) *Dedication of land for park and open space use.* In all new residential subdivisions, a percentage of the gross area of all property subdivided shall be dedicated for parks, playgrounds, trails, public open space, or other public recreational use. For nonresidential developments, the city requires a payment in lieu of land dedication as established by resolution of the city council. Such percentage or fee shall be in addition to the property dedicated for streets, alleys, waterways, pedestrian ways or other public use pursuant to this title. The following schedule describes the required dedication by zoning district. This schedule is based upon density of the development allowed in each district and is intended to equalize the amount and value of land dedicated for parks per dwelling unit in the various districts.

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
RS, V-LDR, GCC, LDR, MDR, and HDR	10 percent
RE and OP Development	7 percent
RR and AG	4 percent
C, CC, LC, GP, BP, and VMX	Fees as set by council resolution

- (b) *Land title.* Public land dedications, which are not dedicated to the city on a plat, shall be conveyed to the city by warranty deed free and clear of all liens or encumbrances. The subdivider shall provide proof of title, in a form acceptable to the city, prior to the conveyance of the property.
- (c) *Land acceptability.* The city must approve the location and configuration of any park land which is proposed for dedication and shall take into consideration the suitability of the land for its intended purpose; the future needs of the city for parks, playgrounds, trails, or open space; and the recommendations of the city's parks commission. The following properties shall not be accepted for park land dedications:
- (1) Land dedicated or obtained as easements for streets, sewer, electrical, gas, stormwater drainage and retention areas, or other similar utilities and improvements;
 - (2) Land which is unusable or of limited use; and/or
 - (3) Land within a protected wetland or within a floodplain area unless the council determines that all of the following criteria are satisfied:
 - a. Would be in the best interests of the general public;
 - b. Would be valuable resource for environmental preservation, educational, or habitat preservation purposes;
 - c. Has an exceptional aesthetic value; and
 - d. Would not become financially burdensome to the city as a result of maintenance or preservation requirements.
- (d) *Trails.* Trails constructed by a subdivider within dedicated public open space having at least 30 feet of width are eligible for park credit. The maximum amount of trail dedication credit shall not exceed 25 percent of the total dedication.
- (e) *Cash contribution in lieu of land dedication; residential subdivisions larger than three lots.* In lieu of the land dedication for major subdivisions, the city may elect to require the subdivider to contribute a cash equivalent payment to the city's park and open space fund, or may require the developer to satisfy the park land dedication requirement by a combination of land and cash contribution. For all major subdivisions, the required cash equivalent payment shall be an amount equal to the fair market value of the percentage land dedication for the zoning district in which the subdivided property is located. The city shall determine the fair market value of the land by reference to current market data, if available, or by obtaining an appraisal from a licensed real estate appraiser; the subdivider shall pay for the cost of the appraisal. The fair market value determination of the appraiser shall be conclusive.
- (f) *Cash contribution in lieu of land dedication; minor residential subdivisions and*

commercial development. Required cash equivalent payments for minor subdivisions or for commercial development projects shall be as determined from time to time by council resolution.

- (g) *Payment of cash contribution.* Cash contribution payments shall be made to the city prior to final plat approval for commercial developments or major subdivisions, or prior to the city's approval of the deeds of conveyance in those cases where a residential subdivision will result in three or fewer lots.
- (h) *Resubdivision of a cash-in-lieu paid property.* Previously subdivided property from which a park dedication or cash in lieu contribution has been received, upon resubdivision with the same number of lots, is exempt from park dedication requirements. If, as a result of the resubdivision of the property, the number of lots is increased, the park dedication or cash in lieu contribution shall be applied only to the net increase in the number of lots.

(i) *Special park and open space fund.*

- (1) Any cash contribution so paid to the city shall be placed in a special fund. The money shall be used only for:

- a. The acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands or open space based on the approved park systems plan;
- b. Redevelopment or rehabilitation of existing park facilities or sites;
or
- c. Debt service in connection with land previously acquired or improvements thereto previously constructed.

- (2) No funds shall be used for ongoing operation or maintenance of existing parks recreational facilities or sites or city vehicles.

(Ord. No. 08-205, § 1(153.15), 4-3-2018)

103.00.160 Required Improvements; Financial Arrangements

- (a) *Improvements.* All sanitary sewer, water main and storm sewer facilities, streets, concrete curb, gutters, sidewalks, sodding, drainage swales, and other public utilities (improvements) shall be made and constructed on or within the subdivided lands or where otherwise required and dedicated to the city and shall be designed in compliance with city standards by a registered professional engineer.
- (b) *Plans and specifications approval.* Plans and specifications shall be submitted to the city engineer for approval prior to construction. All of the improvements shall be completed by the developer and acceptable to the city engineer and shall be

free and clear of any lien, claim, charge, or encumbrance, including any for work, labor, or services rendered in connection therewith or material or equipment supplied therefor.

- (c) *Improvement warranties and guarantees.* Developer shall warrant and guarantee the improvements against any defect in materials or workmanship for a period of two years following completion and acceptance. In the event of the discovery of any defect in materials or workmanship within the two-year period, the defect shall be promptly repaired or corrected, and the warranty and guarantee for the entire project shall be extended for one additional year beyond the original two-year period, for a period of three years following the completion and acceptance. Defects in material or workmanship shall be determined by the city engineer.
- (d) *Required inspections of improvements.* Improvements that are to be installed shall be inspected during the course of construction by the city engineer, at the developer's expense. Notice shall be given to the city engineer a minimum of 24 hours prior to the required inspection. Failure to provide city engineer with required notice shall result in a stop work order issued to the project. If developer proceeds with work within the development without required inspection, city engineer shall have the discretion to accept or reject all or part of the improvement, by giving appropriate written notice to the developer.
- (e) *Acceptance of improvements.* Acceptance of improvements by the city engineer may be subject to the reasonable conditions as the engineer may impose at the time of acceptance. Developer, through his engineer, shall provide for competent daily inspection during the construction of all improvements. An as-built drawing, including service and valve ties, on reproducible Mylar shall be delivered to the engineer within 60 days of completion of the improvements together with a written certification from a registered engineer that all improvements have been completed, inspected, and tested in accordance with city-approved plans and specifications.
- (f) *Changes to construction plans and specifications.* All changes to the construction plans and specifications must be approved by the city engineer.
- (g) *Clean-up obligations; street signs.*
 - (1) Developer shall remove all soil and debris from and clean all streets within the lands developed in accordance with LEC 105.04.770(b)(2)d.
 - (2) In the event there are or will be constructed on the property, two or more streets, and if permanent street signs have not been installed, developer shall install temporary street signs in accordance with recommendations of the maintenance department, prior to the issuance of any permit to build upon the property.
- (h) *Erosion control.* Erosion control shall be provided with the installation of utilities

and street curbs in accordance with the city engineering design standards.

- (i) *Developers agreement/security.* Subsequent to approval by the council and before execution by the city of the final plat or other appropriate forms of city approval, developer shall:

- (1) Enter into a developer's agreement whereby developer shall undertake performance of the obligations imposed by this title, or by council condition, and containing the other terms and provisions and in the form as shall be acceptable to the city attorney, including, but not limited to, provisions for default including fines and penalties; and
- (2) Submit a letter of credit or cash deposit (security) which guarantees completion of all improvements within the times specified by the city engineer. The amount of the security shall be 125 percent of the estimated construction cost of the improvements, subject to reduction as outlined by the development agreement after acceptance thereof by the city engineer, and receipt of as-built drawings. The security shall be in the form and contain the other provisions and terms as may be required by the city engineer and/or city attorney. The developer's registered engineer shall make, and submit for approval to the city engineer, a written estimate of the costs of the improvements. Reduction of security shall be as outlined per the development agreement.

- (j) *Petitions for improvements by city.* With the approval of the council, and instead of the obligations imposed by subsections (a) through (i) of this section, developer may enter into an agreement signed by 100 percent of all owners of the land to be developed, requesting the city to install some or all of the improvements, request all of the costs be assessed against the property, and waiving the rights to appeal from the levied special assessments. Upon approval by the council, the city may cause the improvements to be made and special assessments for all costs of the improvements to be levied on the land, except any land that is or shall be dedicated to the public. The special assessment shall be payable over a term of five years unless otherwise authorized by the council. Prior to the award of any contract by the city for the construction of any improvement, developer shall have entered into a contract for rough grading of streets included in the improvement to a finished subgrade elevation, and including the other terms as required by council. Developer's obligation with respect to the rough grading work shall be secured by letter of credit, or the deposit which shall guarantee completion, and payment for all labor and materials expended in connection with the rough grading. The amount of the security shall be 125 percent of the cost of the rough grading and shall be in the form and contain the further terms as may be required by the city engineer and/or city attorney.

- (k) *City attorney approval.* No final plat shall be approved by the council without first receiving a report signed by the city attorney certifying that the agreements and

documents required under this title meet the requirements of the city. The city treasurer shall also certify that all fees required to be paid to the city in connection with the plat have been paid.

(Ord. No. 08-205, § 1(153.16), 4-3-2018)

103.00.170 Fees

- (a) The council shall by ordinance, adopted from time to time, establish fees to be paid by the applicant to defray the administrative costs and expenses incurred by the city in processing development applications, applications for variance or appeals under the provisions of this title.
- (b) Fees to be paid by the applicant shall include all administrative, engineering, legal, and consulting fees and materials costs reasonably incurred in the review of the proposed subdivision and the processing of the applications or appeals.

(Ord. No. 08-205, § 1(153.17), 4-3-2018)

103.00.180 Violations

- (a) *Sale of lots from unrecorded plats.* It shall be a violation of this title to sell, trade, offer to sell, trade, or otherwise convey a lot or parcel of land as part of, or in conformity with any plan, plat, or replat of any subdivision or area located within the city unless the plan, plat, or replat shall first have been approved by the city in writing as provided by this title and in the case of a plat, replat, or registered land survey unless the survey is recorded in the office of the county recorder or registrar of titles.
- (b) *Misrepresentation as to construction, supervision, or inspection of improvements.* It shall be unlawful for any person to represent that any improvement upon any of the streets, alleys, or avenues of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to the plans and specifications approved by the council, or has been supervised or inspected by the city, when the improvements have not been so constructed, supervised, or inspected.

(Ord. No. 08-205, § 1(153.18), 4-3-2018)

TITLE 105 ZONING

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CHAPTER 105.04 GENERAL PROVISIONS

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105.04.020 All Districts

105.04.030 Unlicensed Passenger Vehicles And Trucks

105.04.010 Prohibited Without Screening

(a) *Storage of property in agricultural and residential districts.* All personal property shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following:

- (1) Laundry, drying;
- (2) Recreational equipment commonly used in residential yards;
- (3) Construction and landscaping materials, and equipment currently (within a period of six months) being used on the premises;
- (4) Off-street parking of licensed operable passenger automobiles and pick-up trucks;

- (5) Boats and trailers less than 25 feet in length, if stored in the rear yard more than ten feet distant from any property line;
 - (6) Merchandise being displayed for sale in accordance with the provisions of the zoning code;
 - (7) Farm implements in the AG zoning district; and/or
 - (8) Firewood storage for personal use.
- (b) *Storage of property in nonresidential districts.* In nonresidential districts, exterior storage of personal property may be permitted by conditional use permit, provided the property is so stored for the purposes relating to a use of the property permitted by the zoning code and will not be contrary to the intent and purpose of the zoning code.
- (c) *Existing uses.* Existing uses shall comply with the provisions of LEC 105.04.010 et seq. within a reasonable time, not to exceed six months following the enactment of this Code.

(Code 1997, §§ 1340.02, 1340.03; Code 2007, § 150.001)

105.04.020 All Districts

- (a) In all districts, all refuse, rubbish, or garbage (as defined in LEC 1.08) shall be kept in an enclosed building or properly contained in a closed container designed for the purposes.
- (b) The owner of vacant land shall be responsible for keeping the land free of refuse, rubbish, or garbage.

(Code 1997, § 1340.04; Code 2007, § 150.002)

105.04.030 Unlicensed Passenger Vehicles And Trucks

Unlicensed passenger vehicles and trucks shall not be parked in residential districts for a period exceeding seven days.

(Code 1997, § 1340.05; Code 2007, § 150.003)

105.04-II SCREENING

[105.04.040 Required Screening](#)

105.04.040 Required Screening

- (a) *Screening.* Screening shall be required in residential districts for any off-street parking area which contains more than four parking spaces and is within 30 feet

of an adjoining residential lot.

- (b) *Business, industrial screening.* Where any business or industrial use (structure, parking, or storage) is adjacent to property zoned or developed for residential use, that business or industry shall be screened along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is across the street from a residential zone, but not on the side of a business or industry considered to be the front.
- (c) *Exterior storage.* All exterior storage shall be screened as required by LEC 105.04.010.
- (d) *Mechanical apparatus on roofs.* All mechanical apparatus on roofs shall be screened.
- (e) *Loading docks.* Loading docks shall be screened from all streets and adjacent property unless they are at the rear of the building which abuts another commercial use. The property owner may provide a 30-foot landscaped area between the dock and the property line where screening is not possible.

(Code 1997, § 1345.01; Code 2007, § 150.020)

105.04-III LIGHTING, GLARE CONTROL, AND EXTERIOR LIGHTING STANDARDS

105.04.050 Purpose

105.04.060 Exterior Lighting Plan

105.04.070 Prohibited Lighting

105.04.050 Purpose

The purpose of LEC 105.04.050 et seq., is to promote the public health, safety, and general welfare of the community while protecting motor vehicle operators, pedestrians, and adjacent land uses from glare to ensure a dark sky area for proliferation of wildlife, fireflies, etc.

(Code 1997, § 1350.01; Code 2007, § 150.035; Ord. No. 97-17, 9-16-1997; Ord. No. 08-202, § 1(150.035), 3-6-2018)

105.04.060 Exterior Lighting Plan

- (a)
 - (1) Except for single- and two-family dwellings, an exterior lighting plan shall be submitted to the city in order to determine whether the purpose and requirements of LEC 105.04.050 et seq. have been met prior to installation or modification of exterior lighting.
 - (2) This plan will be prepared by a certified architect, landscape architect, or lighting designer.

- (b) (1) The applicant must provide a plan that identifies the location, size, and type of luminaire, and show how the applicant intends to comply with LEC 105.04.050 et seq.
- (2) A photometric plan of the site and fixture data sheet must be submitted with a site plan for office, commercial, or any type of industrial project in order to determine the effect of the luminaire on surrounding properties.

(Code 1997, § 1350.03; Code 2007, § 150.036; Ord. No. 97-17, 9-16-1997; Ord. No. 08-202, § 1(150.036), 3-6-2018)

105.04.070 Prohibited Lighting

- (a) *Public roadway or street.* No lights shall be placed in view of any public roadway or street so that its beams or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any motor vehicle.
- (b) *Lighting in all zoning districts.* No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall be directed into any adjoining property.
- (c) *Bare light bulbs.* Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way.
- (d) *Light cast.* No light or combination of lights, which cast light on a public street, shall exceed one footcandle meter reading as measured from the centerline of the street, nor shall any light or combination of lights, which cast light on an adjacent property, exceed four-tenths footcandles as measured from said property line.
- (e) *Maximum height.* The maximum permitted height for any light pole, as measured from at grade from the base of the pole to the top of the luminaire, shall be 15 feet in all residential districts and 30 feet in all nonresidential districts.
- (f) *Exceptions.* The requirements of LEC 105.04.050 et seq. do not apply to the following types of exterior lighting:
 - (1) *Ornamental lighting.* Ornamental landscape lighting fixtures, and solar operated light fixtures having self-contained rechargeable batteries, or any other ornamental, landscape or decorative lighting where any single light fixture does not exceed 200 initial light output lumens;
 - (2) *Right-of-way lighting.* Public lighting located within and intended for the right-of-way;
 - (3) *Temporary lighting.* Temporary lighting for public events (including, but not limited to, public sporting events, theatrical, television or performance

- areas) with an approved special event permit or held by the city;
- (4) *Required lighting.* Lighting required by the Federal Aviation Administration or other state or federal agency;
 - (5) *Public safety lighting.* Temporary lighting for police, fire or public safety construction and repair personnel;
 - (6) *Shoreline lighting.* Certain shoreline lighting may be exempt from the requirements of these sections in order to provide sufficient illumination to a berthing structure, pier, or dock in the interest of public safety. Such fixture may be located anywhere on the property, including the principal structure, provided it meets the requirements of this subsection. Said fixtures shall be configured in a way to prevent illumination more than 50 feet beyond the berthing structure, pier or dock. Illumination shall only be activated during those times when the berthing structure, pier, dock or watercraft is in use.

(Code 1997, § 1350.04; Code 2007, § 150.037; Ord. No. 97-17, 9-16-1997; Ord. No. 08-202, § 1(150.37), 3-6-2018)

105.04-IV LANDSCAPING

[105.04.080 Landscaping Requirements](#)

[105.04.090 Boundary Landscape Requirements](#)

[105.04.100 Front And Side Yards](#)

[105.04.110 Open And Unimproved Areas](#)

[105.04.120 Owner Responsibility](#)

[105.04.130 Keeping Natural Or Existing Character](#)

[105.04.140 Turf Established](#)

[105.04.150 Commercial And Industrial Property Maintenance](#)

[105.04.160 Conservation Of Vegetation](#)

105.04.080 Landscaping Requirements

The landscaping required on a lot shall consist of a finish grade and a soil retention cover such as sod, seed, mulch, and plantings, or as may be reasonably necessary to protect the soil and aesthetic values on the lot and adjacent property.

(Code 1997, § 1365.01; Code 2007, § 150.070)

105.04.090 Boundary Landscape Requirements

- (a) In all districts, all developed land shall have landscaping from the curb and gutter to the road right-of-way lines.
- (b) This landscaped yard shall be kept clear of all structures, exterior storage, and

off-street parking.

(Code 1997, § 1365.02; Code 2007, § 150.071)

105.04.100 Front And Side Yards

Landscaping shall be provided and maintained on all required front and side yards in all developed districts except where pavement or crushed stone is used for walkways, driveways, or parking areas.

(Code 1997, § 1365.03; Code 2007, § 150.072)

105.04.110 Open And Unimproved Areas

All open areas or any site, lot, tract, or parcel not otherwise improved shall be graded to provide adequate drainage and shall be landscaped.

(Code 1997, § 1365.04; Code 2007, § 150.073)

105.04.120 Owner Responsibility

It shall be the responsibility of the owner to see that the landscaping is maintained in an attractive and well-kept condition.

(Code 1997, § 1365.05; Code 2007, § 150.074)

105.04.130 Keeping Natural Or Existing Character

All lots, tracts, or parcels shall be properly maintained in accordance with their natural or existing character.

(Code 1997, § 1365.06; Code 2007, § 150.075)

105.04.140 Turf Established

Turf must be established by the use of grass seed or sod on all lots, within 60 days of the issuance of a certificate of occupancy, excluding the time between October 1 and May 1. Turf must be established on all new developed lots by July 1, 2013. Alternate plans, other than turf, shall be approved by city staff prior to installation.

(Code 2007, § 150.076; Ord. No. 08-66, 1-15-2013)

105.04.150 Commercial And Industrial Property Maintenance

All commercial/industrial properties shall maintain trees, shrubs, landscaping, parking lots, and exterior signage. Dead trees and shrubs are to be replaced within four months of notice.

(Code 2007, § 150.077; Ord. No. 08-66, 1-15-2013)

105.04.160 Conservation Of Vegetation

No person shall make any unauthorized use of any public site or open space which is detrimental to the turf and/or soil conditions.

(Code 2007, § 150.078; Ord. No. 08-66, 1-15-2013)

105.04-V WIND GENERATORS

[105.04.170 Intent](#)

[105.04.180 Location](#)

[105.04.190 Application](#)

[105.04.200 Application Review](#)

[105.04.210 Duration And Review](#)

105.04.170 Intent

- (a) Wind generators offer an alternative method of providing electrical power.
- (b) It is the intent of the city to regulate the facilities in order to protect the safety and welfare of residents of the city and in order to prevent wind generators from becoming a nuisance.

(Code 1997, § 1385.01; Code 2007, § 150.090)

105.04.180 Location

Wind generators are permitted in the Rural Residential (RR) and Agricultural (AG) Zoning Districts upon issuance of a wind generator permit.

(Code 1997, § 1385.03; Code 2007, § 150.091)

105.04.190 Application

- (a) Applicants for a wind generator permit shall complete application forms as provided by the city administrator.
- (b) The application shall include the following:
 - (1) A report from a professional engineer describing the proposed wind generator and certifying the safety of the device;
 - (2) A site plan of the applicant's property drawn to a scale of one inch equals 100 feet and illustrating the location of the wind generator and all other buildings or structures located within 300 feet of the base of the wind generator; and

- (3) A statement indicating that the proposed wind generator is in compliance with all applicable regulations of the Federal Aviation Agency where appropriate.

(Code 1997, § 1385.04; Code 2007, § 150.092)

105.04.200 Application Review

- (a) The completed application shall be forwarded to the building inspector for review and recommendation. Within 30 days of the receipt of the completed application, the city administrator shall schedule a public hearing before the city council to review the application. The public hearing shall be preceded by ten days' mailed notice to all residents within 350 feet of the perimeter of the applicant's property.
- (b) Wind generator permits shall be issued subject to the following conditions:
 - (1) The minimum lot size requirement shall be 40 acres. The site must also be large enough to contain within its boundaries any debris resulting from tower failure and/or falling ice.
 - (2) The wind generator structure shall not exceed 125 feet in height.
 - (3) The wind generator and guy wires shall have a minimum setback of 150 feet from any property line.
 - (4) Fencing may be required if the structure poses a safety hazard to residents.
 - (5) Accessory buildings and guy wires must meet the setback requirements for the underlying zoning district.
 - (6) No lighting is allowed on the wind generator.
 - (7) Wind generators are prohibited in the Lake Elmo Airport Safety Zones.
 - (8) There shall be at least 1,000 feet between wind generators.
 - (9) If the applicant's property is subdivided into parcels of less than 40 acres, the wind generator shall be removed as a condition of the subdivision approval.
 - (10) Wind generator permits are not transferable. Upon sale of the property, the purchaser must apply for a new wind generator permit or remove the wind generator from the property.

(Code 1997, § 1385.05; Code 2007, § 150.093)

105.04.210 Duration And Review

- (a) Wind generator permits shall expire upon sale or subdivision of the property as provided above, but shall be reviewed annually.
- (b) Wind generator permits may be revoked by an affirmative vote of three councilmembers for noncompliance with the conditions of the permit.

(Code 1997, § 1385.06; Code 2007, § 150.094)

105.04-VI ALTERNATIVE ENERGY SYSTEMS

105.04.220 Solar Energy Systems

105.04.220 Solar Energy Systems

Solar energy systems are permitted accessory uses in all districts, provided the system or equipment is in compliance with standards set forth below:

- (a) *Permits.* A building permit shall be obtained before the installation of solar arrays or panels on any property. All solar energy systems shall be installed and components labeled in accordance with the state electrical code section 690.
- (b) *Rooftop or building integrated solar energy systems.*
 - (1) These systems are permitted accessory uses in all districts in which buildings are permitted.
 - (2) Visibility, commercial installations. Commercial rooftop systems shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.
- (c) *Ground-mount solar energy systems.*
 - (1) Ground-mount energy systems are permitted accessory uses in all districts where buildings are permitted.
 - (2) Ground-mount energy systems must comply with all accessory setback, height and lot coverage restrictions unless otherwise stated herein or a variance is granted and shall not encroach on any city easement unless an easement encroachment agreement approved by the planning director or his designee after review and approval from the city engineer or his designee has been executed. A certificate of zoning compliance is required for all solar energy systems unless a conditional use permit is required as stated herein.
 - (3) The collector surface of a ground-mount system and any foundation, compacted soil, or other component of the solar installation that rests on the ground is considered impervious surface. Vegetated ground under the collector surface can be used to mitigate stormwater runoff.

- (4) Exemptions. Solar energy systems of a size of six square feet or less may be exempt from zoning district setback requirements.
- (d) *Interconnection agreement.* All electric solar energy systems that are connected to the electric distribution or transmission system through the existing service of the primary use on the site shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Solar energy systems connected directly to the distribution or transmission system must obtain an interconnection agreement with the interconnecting electric utility. Systems that are not directly connected to the grid or not connected to the electric system of a building that is connected to the grid are exempt from this requirement.
- (e) *Glare.*
- (1) Glare produced from any solar energy system shall be minimized from affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.
 - (2) Mirror reflecting designed solar energy systems. Mirror reflecting designed solar energy systems are permitted only on properties with ten acres or larger. A conditional use permit is required and more restrictive setback standards may be required upon review of the conditional use permit.
- (f) *Code requirements.* Electric solar energy system components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing. All solar installations must comply with the state electrical code and National Electrical Code. All rooftop or building integrated solar energy systems require a building permit and shall comply with the state building code. Solar thermal hot water systems shall comply with applicable state plumbing code requirements.
- (g) *Decommissioning.* A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The city may require the posting of a bond, letter of credit or the establishment of an escrow to ensure proper decommissioning.
- (h) *Easements allowed.* Solar easements may be filed, consistent with M.S.A. § 500.30. Any building owner can purchase an easement across neighboring properties to protect access to sunlight. The easement is purchased or granted by owners of neighboring properties and can apply to buildings, trees, or other structures that would diminish solar access.

(Code 2007, § 154.310(C); Ord. No. 08-080, 5-21-2013; Ord. No. 08-107, 5-6-2014; Ord. No. 08-128, 2-16-2016; Ord. No. 08-197, § 6(2), 2-7-2018; Ord. No. 08-198, 2-7-2018; Ord. No. 08-199, 2-7-2018; Ord. No. 08-198, § 2, 2-20-2018)

105.04-VII WIRELESS COMMUNICATIONS FACILITIES

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[105.04.240 Permit Requirements](#)

[105.04.250 Proof Of Need](#)

[105.04.260 Location Requirements And Site Ranking Analysis](#)

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[105.04.340 Wireless Communications Tower Agreement](#)

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[105.04.360 Minimum Conditions](#)

105.04.230 Purpose And Intent

The purpose of this subchapter is to allow for and regulate the design, location, placement, construction, maintenance, and removal of wireless communications towers and antennas and to:

- (a) Reasonably accommodate the provision of wireless telecommunication services to the general public;
- (b) Provide safety/emergency service through the use of wireless communications facilities;
- (c) Minimize adverse visual effects of wireless telecommunication towers, antennas, or accessory equipment through careful design and siting standards;
- (d) Strictly control the location and design of wireless communications facilities so that allowed facilities will not be obtrusive or visually unpleasant and, in particular, to protect residential property and neighborhoods from visually intrusive tower installations where reasonably possible;
- (e) Provide clear standards governing all aspects of such facilities;
- (f) Avoid potential damage to adjacent properties from tower failures through structural standards and setback requirements;
- (g) Maximize the use of existing and approved towers, structures, and/or buildings for the location of new wireless telecommunication towers in order to reduce the number of the structures needed to accommodate wireless telecommunication

services; and

- (h) Allow new facilities only when a documented proof of need satisfactory to the city can be shown.

(Code 2007, § 150.110; Ord. No. 08-019, 11-4-2009)

105.04.240 Permit Requirements

- (a)
 - (1) All new wireless communications facilities shall require a conditional use permit in accordance with the zoning district requirements specified in LEC 105.04.280 with the exception of those facilities that are exempt from review under this chapter or that may be approved administratively with a wireless communications permit.
 - (2) A public hearing for a new wireless communications facility that requires a conditional use permit shall be preceded by ten days' mailed notice to record owners of property located within 1,000 feet of the parcel on which the tower will be located.
- (b) Exemptions. The following are exempt from review under this chapter:
 - (1) Television antennas, satellite dishes one meter (39 inches) in diameter or less;
 - (2) Satellite dishes used commercially and three meters in diameter or less;
 - (3) Receive-only antennas;
 - (4) Amateur radio facilities, subject to other city Code requirements;
 - (5) Mobile services providing public information coverage of news events or of a temporary or emergency nature.
- (c) Administrative review. The following shall be allowed as a permitted use subject to the issuance of a wireless communications permit in accordance with LEC 105.04.280:
 - (1) Satellite dishes more than one meter (39 inches) in diameter;
 - (2) Ground-mounted antennas not exceeding the maximum height allowed for structures in the underlying zoning district;
 - (3) Building-mounted antennas not exceeding 25 feet above the highest part of the building to which they are attached;
 - (4) Utility pole-mounted antennas not exceeding 25 feet above the highest part of the utility pole to which they are attached;
 - (5) Antennas co-located on an existing wireless communications facility

structure.

(Code 2007, § 150.111; Ord. No. 08-019, 11-4-2009)

105.04.250 Proof Of Need

- (a) As part of an application for a conditional use permit or wireless communications permit, an applicant shall demonstrate proof of need by providing a coverage/interference analysis and capacity analysis, which indicates that the location and height of the tower or antennas as proposed is necessary to meet the frequency plus other spacing needs of the cellular communication system and/or to provide adequate portable radio coverage and capacity to areas which cannot be adequately served by locating the tower or antenna at another site. The proof of need for the tower or antennas must be demonstrated to the satisfaction of the city by providing the city an analysis from a qualified professional RF engineer with experience in radio frequency analysis work, which is subject to acceptance by the city prior to commencing the work.
- (b) The cost of the city's review, including an analysis of the proof of need, is the applicant's responsibility. An escrow shall be established in an amount required by council resolution for this purpose.
- (c) The analysis and the material provided by the engineer shall include at least the following:
 - (1) *Structural capacity analysis*. Provide an analysis of the impact of the proposed facility on the tower's carrying capacity of at least three antenna arrays required (using a typical maximum facility) under the co-location provision of this subchapter.
 - (2) *Coverage/interference*. Provide an analysis for:
 - a. City property and other public property with signal strength values (expressed in decibels) for on street level, in vehicle, and in building level with said interference analysis indicating the protection afforded for all the frequencies in use or which could be in use by the city or other public safety agencies.
 - b. Private property with signal strength values (expressed in decibels) for on street level and in building level with said analysis indicating the protection afforded property within one-half mile of the proposed facility and site.
 - (3) *System capacity analysis*. If the system coverage analysis does not show a coverage need, provide a system capacity analysis.
 - (4) *Radio frequency radiation hazard analysis*. The analysis must address

compliance with the most current FCC Bulletin OET 65 radiation standard.

- (5) *Map of existing and proposed facilities.* A map showing the location of all existing and any proposed towers within two miles of the site being considered. Communications equipment and towers within this area shall be identified by type, function, ownership/users and height. The capacity of existing towers located within two miles (the study area) to carry additional facilities must be provided.
- (6) *Map of existing buildings and structures.* A map showing the location of all existing buildings, water towers and structures 75 feet or more in height above the ground and within two miles of the site being considered. The potential and efforts undertaken to use these buildings and structures as a supporting base for an antenna or communications facility purpose must be described and analyzed.
- (7) *Other information.* Any other information deemed necessary by the city in order to demonstrate the need for a new wireless communications facility.
- (8) *Exception.* If the request is limited to adding an antenna array on an existing tower without increasing the height of the tower support structure or otherwise permitted after an administration review under LEC 105.04.240, the city may waive some or all of the proof of need requirements listed above.

(Code 2007, § 150.112; Ord. No. 08-019, 11-4-2009)

105.04.260 Location Requirements And Site Ranking Analysis

- (a) *Location requirements for new facilities.* If a new wireless communications facility is needed, based on the materials and studies submitted and reviewed by the city, the following preferences, listed in ranked order, shall be followed and each preference shall be analyzed to determine the most appropriate location:
 - (1) Use of existing towers. An existing tower may be used to support the proposed facility. If no existing tower has additional capacity, a determination must be made to show if and how towers in the study area can be modified to accommodate the proposed facility. The co-location requirements specified in LEC 105.04.270 shall be used to help determine whether or not an existing tower can be used to support a proposed facility.
 - (2) Use of existing structures. An existing structure over 35 feet high may be used. Preference shall be given to existing light poles, high voltage utility towers and water towers.

- (3) Use of existing building four or more stories in height. Public and commercial buildings or structures four or more stories high which can more likely accommodate facilities without obstructing views or being obtrusive to scenic views shall be given preference over shorter buildings.
- (4) Within an existing easement that contains utility poles over 75 feet in height or within 100 feet of said right-of-way.
- (5) Public land and facilities. In situations in which one of the four options listed above is not feasible, land owned by the city or other public property shall have preference to private property.
- (6) Private property within the city subject to the location and zoning requirements of this chapter and the following criteria:
 - a. Less restrictive zoning districts shall be given preference over more restrictive zoning districts. For example, proposed sites in commercial or industrial districts will be given preference over sites in residential, rural residential or agricultural zoning districts.
 - b. Sites with the least visual impact on residential areas and which are the most consistent with the community's rural character shall be given preference.

(b) *Lower ranked alternatives.* In cases where a lower ranked alternative is proposed, the applicant shall file a written analysis demonstrating that, despite diligent efforts to adhere to the established hierarchy within the potential service area, as determined by a qualified radio frequency engineer, higher ranked options are not technologically feasible. An application for a lower-ranked site shall be considered incomplete without this written documentation.

(Code 2007, § 150.113; Ord. No. 08-019, 10-4-2009)

105.04.270 Co-Location Requirements

- (a) In accordance with the location requirements and site preferential ranking found in this chapter, wireless communication services shall be located on existing towers or structures which exceed 35 feet in height and which are located within the potential service area for the site being proposed by the applicant. In the event that co-location is not possible, the applicant must demonstrate that a good faith effort to co-locate on existing towers and structures was made but an agreement could not be reached.
- (b) *Exceptions to co-location requirements.* The city council shall waive any or all of the co-location requirements if it is determined that:
 - (1) The antennas and/or tower accessory equipment would cause the

structural capacity of an existing or approved tower or building to be exceeded, as documented by a qualified and licensed professional engineer, and the existing or approved tower or building cannot be reinforced, modified, or replaced to accommodate the antennas or tower accessory equipment at a reasonable cost;

- (2) The antennas and/or tower accessory equipment would cause interference materially impacting the usability of existing antennas or tower accessory equipment as documented by a qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost, or would otherwise prevent the use of existing antennas or related accessory equipment and structures;
- (3) Existing or approved towers and buildings within the applicant's search radius cannot or will not accommodate the antennas and/or tower accessory equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer; and/or
- (4) Other unforeseen reasons make it infeasible to locate the antennas and/or tower accessory equipment upon an existing or approved tower or building.

(Code 2007, § 150.114; Ord. No. 08-019, 11-4-2009)

105.04.280 Prohibited Areas

Wireless telecommunication towers shall not be allowed in the following areas:

- (a) Residentially zoned parcels (R-1, R-2, R-3, R-4, and RE zoning districts) of less than 2.5 acres or rural residential parcels of less than five acres unless the wireless telecommunication tower and ground facilities accessory thereto are located within an existing public utility power line right-of-way or other public right-of-way that contains utility poles over 75 feet in height or within 100 feet of said right-of-way;
- (b) Open space easements or conservation easements;
- (c) Airport impact zones without consent of the FAA; and/or
- (d) Open space preservation zoning districts.

(Code 2007, § 150.115; Ord. No. 08-019, 11-4-2009)

105.04.290 Zoning Requirements

- (a) Wireless communications facilities that require a conditional use permit, including the installation of a new tower, shall be permitted in the following

districts and subject to the following height restrictions provided they meet all other requirements of this subchapter.

<i>Zoning District</i>	<i>Maximum Height (in feet)</i>	<i>Minimum Parcel Area</i>
A-Agriculture	125	10
RR-Rural Residential Zoning	125	5
R-1, R-2, R-3 and R-4 Residential	125	2.5
OP-Open Space	125	2.5
RE-Residential Estates	125	2.5
GB, LB, CB, HB-Business	125	5
BP-Business Park	125	5
PF-Public Facility	125	None

- (b) The city council may increase the maximum height of a wireless communications facility by 25 feet in all residential and open space districts and 50 feet in agriculture, business and public facility districts, provided that an applicant is able to demonstrate a need for a higher facility and/or that the additional height will serve a public interest in allowing fewer towers to serve a given area.
- (c) Regardless of zoning district, new facilities may be allowed within an existing public utility power line right-of-way or other public right-of-way that contains utility poles over 75 feet in height or within 100 feet of said right-of-way.
- (d) Public land exemption. A wireless communication facility may be located on any parcel that is owned by the city or another public entity regardless of the zoning district or size of the property.

(Code 2007, § 150.116; Ord. No. 08-019, 11-4-2009)

105.04.300 Application And Review Procedures

- (a) *Wireless communications permit (administrative approval)*. An applicant seeking approval of a facility that can be approved administratively with a wireless communications permit shall follow all of the application requirements listed below for a conditional use permit but shall be exempt from those requirements found in the zoning code including the public hearing requirements. An application found to comply with the provisions of this chapter may be approved by the planning director. Approval shall be in writing, identifying the specific facility approved, the location, mounting height, and other pertinent information and any conditions of approval. If the requested facility is to be located on public

property, the agreement allowing the facility shall be approved by the city council and executed prior to issuing the permit.

- (b) *Conditional use permit.* Wireless communications facilities that require a conditional use permit are subject to the requirements specified in the zoning code in addition to all requirements of LEC 105.04.240. Applications shall be submitted on forms provided by the city and shall include the following information:

- (1) *Plan drawing.* A site plan drawn to scale acceptable to the planning director which illustrates:
 - a. The parcel on which the tower and accessory ground facilities will be located;
 - b. The existing and proposed buildings and structures on the tower parcel;
 - c. The buildings located within 200 feet of the perimeter of the tower parcel; and
 - d. Access easements as necessary to the tower parcel.
- (2) *Exterior plan drawing.* A scaled drawing of the exterior of the proposed wireless communications facility, clearly showing the method of fencing, coloration, materials, and camouflage techniques being used.
- (3) *Post construction renderings.* Photo-simulated post construction renderings of the proposed wireless communications facilities, equipment enclosures, and ancillary structures as they would look after construction from locations at the periphery of the proposed site, which shall, at a minimum, include renderings from the vantage point of any adjacent roadways and residential neighborhoods. The renderings shall also include photo-simulations of the antenna supporting structure after it has been fully developed with antenna structures (the applicant may assume for the purpose of the simulation that other antenna structures on the facility will resemble their proposed structure size and design). A minimum of two such renderings shall be provided; additional renderings may be required if the city determines that additional views should be considered.
- (4) *Exterior colors.* Exterior paint or finish samples of the colors to be used in the construction of the wireless communication facility.
- (5) *Engineer's report.* A report from a qualified and licensed professional engineer which:
 - a. Describes the wireless communication tower height and design including a cross-section and elevation;

- b. Certifies the wireless communication tower's compliance with structural and electrical standards;
- c. Documents the height above grade for the mounting positions, which can be used for co-location and the minimum separation distances between the co-location positions; and
- d. Describes the wireless communication tower's capacity to support antennas, including an example of the number and type of antennas that can be accommodated on the wireless communication tower.

(6) *Five-year plan.* In conjunction with the information required to demonstrate the proof of need for a new facility under this subchapter, the applicant shall submit a five-year plan for wireless telecommunication facilities to be located within the city. The city acknowledges that the plans are fluid and in all likelihood will change depending upon market demands for the service. The city will maintain an inventory of all existing and reasonably anticipated cell site installations. The applicant shall provide the following written information in each five-year plan and the plan must be updated with each submittal for a new wireless communication tower permit as necessary:

- a. A description of the radio frequencies to be used for each technology;
- b. A list of all existing sites to be upgraded or replaced, and proposed cell sites within the city for these services by the applicant; and
- c. A presentation size map of the city, which shows the five-year plan for cell sites, or if individual properties are not known, the geographic service areas of the cell sites.

(c) *Application fee.* An application fee in an amount prescribed from time to time by city council resolution as necessary to reimburse the city for costs incurred to process the wireless communication tower permit application along with an escrow payment as prescribed by the city council to cover the costs associated with the city's review of the permit.

(d) *FCC licensing.* Confirmation that the applicant is properly licensed by the FCC, or is the authorized representative of a wireless communication provider properly licensed by the FCC.

(e) *Owner authorization.* Written authorization from the property owner describing the area which will be subject to the tower lease.

(f) *Prevention of destructive interference.* Documentation of the steps to be taken by

applicant to avoid causing destructive interference to co-located previously established public safety communications facilities; and

- (g) *Landscape and screening plan.* A detailed landscape plan, which indicates how tower accessory equipment will be screened.

(Code 2007, § 150.117; Ord. No. 08-019, 11-4-2009)

105.04.310 Expert Review

- (a) Where, due to the complexity of the methodology or analysis required to review an application for a wireless communications facility, the planning director may require a technical review by a third-party expert. The costs of this review shall be borne by the applicant, and shall be in addition to applicable conditional use or wireless communications permit, and building permit fees. The applicant shall submit an escrow deposit that may be applied towards the cost of such technical review upon notification from the director that a technical review is required, and shall remit any outstanding balance to the city for such review prior to issuance of a building permit. The maximum fee for such review and the required escrow deposit shall be in accordance with the fee schedule adopted by the city council.
- (b) The expert review may address any or all of the following:
 - (1) The accuracy and completeness of submissions;
 - (2) The applicability of analysis techniques and methodologies;
 - (3) The validity of conclusions reached;
 - (4) Whether the proposed wireless communications facility complies with the applicable approval criteria set forth in these regulations;
 - (5) Other matters deemed by the city to be relevant to determining whether a proposed wireless communications facility complies with the provisions of these regulations.
- (c) Based on the results of the expert review, the city may require changes to the applicant's application and submittals.
- (d) The applicant shall reimburse the city within 15 working days of the date of receipt of an invoice for expenses associated with the third-party expert's review of the application. Failure by the applicant to make reimbursement pursuant to this section shall abate the pending application until paid in full.

(Code 2007, § 150.118; Ord. No. 08-019, 11-4-2009)

105.04.320 Construction Permits

All wireless communication towers erected, constructed, or located within the city, and

all wiring therefor, shall comply with the requirements set forth in the city's most recent building and zoning regulations.

(Code 2007, § 150.119; Ord. No. 08-019, 11-4-2009)

105.04.330 Tower Standards

(a) *Compliance with standards.* Wireless communication towers shall comply with the following standards unless the city council grants a variance as necessary to reasonably accommodate the wireless communication tower. Variance procedures shall be processed according to the zoning code.

(b) *Design.*

- (1) To blend into the surrounding environment through the use of color; and architectural treatment and techniques that softens the visual impact of the wireless communication tower on the surrounding environment;
- (2) To be of a monopole design unless the city council determines that an alternative design would better blend into the surrounding environment;
- (3) All proposed wireless communication towers shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is less than 100 feet in height, provided that this standard may be waived or otherwise modified by the city council as necessary to allow the applicant to construct a wireless communication tower that better blends into the surrounding environment;
- (4) Where possible, all proposed wireless communication towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at various heights;
- (5) All facilities shall be designed to minimize the visual impact to the greatest extent feasible by means of placement, screening, landscaping with native species, whenever feasible, and camouflage, and be compatible with existing architectural element, building materials, and other site characteristics. The applicant shall use the least visible antennas possible to accomplish the coverage objectives.

(c) *Adverse effects on properties.*

- (1) New wireless communications facilities shall be configured and located in a manner that shall minimize adverse effects, including visual impacts on adjacent properties. The applicant shall demonstrate that alternative locations, configurations, and facility types have been examined and shall address in narrative and graphic form the feasibility of any alternatives

that may have fewer adverse effects on adjacent properties than the facility, configuration and location proposed.

- (2) The following attributes shall be considered from vantage points at adjacent properties, roadways and occupied structures: height and location, mass and scale, materials and color, existing and proposed vegetation and intervening structures.
- (3) An applicant shall demonstrate through the photo-simulation requirements under LEC 105.04.300(b)(3) that the project design employs each of these attributes in a manner that minimizes adverse effects to the greatest extent possible.
- (4) All facilities that have the potential for high visibility shall be sited in such a manner as to cause the least detriment to the view shed of adjoining properties.

(d) *Setbacks.*

- (1) No communications tower shall be located in the required front, side or rear yard setback of any parcel.
- (2)
 - a. No freestanding communications tower shall be located closer than 125 percent of the tower height from any lot lines with the following exceptions:
 - b. Towers in a side or rear yard that are adjacent to parcels zoned commercial, industrial or public facility.
- (3) Setbacks from buildings:
 - a. In residential zoning districts, wireless communications towers shall be set back a minimum of 100 percent of the tower height from a residential dwelling except for dwellings on the subject property.
 - b. In all other zoning districts, the minimum setback between structures as required by the building code shall be observed.
- (4) Use of existing light poles, high voltage poles or towers and other existing structures are exempt from the setback requirements, provided that such pole, tower or structure is not increased in height.
- (5) Wireless communications towers located within an existing public utility power line right-of-way or other public right-of-way that contains utility poles over 75 feet in height or within 100 feet of said right-of-way shall be exempt from the setbacks as herein required.
- (6) A required setback may be reduced or its location in relation to a public

street varied upon providing the city with a licensed professional engineer's certification that the wireless communication tower is designed to collapse or fail within a distance or zone shorter than the required setback distance.

- (e) *Height.* The maximum height of a wireless communications tower shall be determined based on the underlying zoning district and will be the amount specified in LEC 105.04.290.
- (f) *Lighting.* At night, wireless communication towers shall not be illuminated by artificial means, unless otherwise required by the Federal Aviation Administration (FAA).
 - (1) White strobe lighting is prohibited.
 - (2) The applicant shall document the need for lighting as part of a new wireless communications facility application.
 - (3) A site that requires lighting shall only be accepted when no other suitable alternative exists. A new tower may be rejected on the grounds that lighting will be a visual nuisance to surrounding properties.
- (g) *Landscaping and screening.*
 - (1) All wireless communications towers and related building facilities shall be landscaped and screened with natural vegetation to lessen the visual impact. The natural vegetation on the site shall be documented on the site plans. Suitable existing vegetation shall be retained to the maximum extent possible based on an analysis of the site. New landscaping shall be selected that includes coniferous and deciduous plants and trees that are hardy for conditions on the site without the use of augmented water.
 - (2) Landscaping shall include ground cover, lower story, mid-story and upper story plants. Plant density shall be sufficient to provide 80 percent opacity year-round from the ground up to a distance of five feet high for 60 percent or more of the site with the planting to be located based on an analysis of the site in relation to the surrounding area. Greater or lesser amounts and percentages may be required or allowed based on the city's review.
- (h) *Signs and advertising.* The use of any portion of a wireless communications tower for signs other than warning or equipment information is prohibited.
- (i) *Interference with public safety communication.* No wireless communication facility shall interfere with public safety communications. All wireless communication towers/antennas shall comply with FCC regulations and licensing requirements.
- (j) *Accessory utility buildings.* All utility buildings and structures accessory to a

tower shall be architecturally designed to blend in with the surrounding environment and compatible with adjacent buildings, and shall be permitted in addition to the number of accessory buildings otherwise allowed in each zoning district.

- (1) Ground-mounted equipment shall not be visible from beyond the boundaries of the site and shall be screened by a solid wall or fence and dense landscaping materials described in subsection (g) of this section.
 - (2) Accessory utility buildings shall observe the minimum setback requirements for accessory buildings in the underlying zoning district as well as all other applicable zoning and building requirements for accessory buildings.
- (k) *Maintenance.* All buildings and structures on the premises of the wireless communications facility shall observe the city's property maintenance standards of the city Code.

(Code 2007, § 150.120; Ord. No. 08-019, 11-4-2009)

105.04.340 Wireless Communications Tower Agreement

- (a) If the application is approved by the city, a wireless communications tower permit and a building permit shall be issued upon the execution of a wireless communication tower agreement.
- (b) The agreement shall be signed by the applicant and property owner and the terms of the agreement shall include the following:
 - (1) A list of the conditions of approval to the wireless communication tower permit;
 - (2) A statement indicating that failure to comply with the conditions of approval shall result in the removal of the wireless communication tower, antennas, or tower accessory equipment;
 - (3) A statement indicating that the expenses incurred by the city to enforce the provisions of the wireless communication tower agreement shall be reimbursed by the applicant;
 - (4) A statement, which requires the applicant to utilize the procedures established by the FCC to resolve any complaints received relating to interference allegedly caused by the wireless communication tower; and
 - (5) A statement indicating that a wireless communication tower which has not been used for six consecutive months shall be deemed abandoned and may be required to be removed in accordance with LEC 105.04.350. To ensure compliance with this provision, the applicant must submit a performance bond or letter of credit in an amount sufficient to cover the

removal or reduction costs.

(Code 2007, § 150.121; Ord. No. 08-019, 11-4-2009)

105.04.350 Abandonment And Removal

- (a) Towers and antennas shall be removed within six months of cessation of use.
- (b) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The planning director may extend the time for removal or reactivation up to 60 days upon showing of a good cause. If the tower or antenna is not removed in a timely fashion, the city may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the city may cause removal and be reimbursed for all costs associated with said removal by drawing on the funds provided with the financial guarantee.
- (c) Upon removal of the wireless communication facility, the site shall be returned to its natural state and topography and vegetated consistent with natural surroundings.

(Code 2007, § 150.122; Ord. No. 08-019, 11-4-2009)

105.04.360 Minimum Conditions

General conditions on a wireless communications permit may include, but not be limited to, the following:

- (a) An agreement providing for co-location and six-month removal of unused and/or obsolete towers shall be attached and become part of the permit.
- (b) The tower shall be set back a distance equal to the tower height from all property lines. All accessory structures shall be set back a minimum of 20 feet from all side yard and rear yard property lines.
- (c) Zoning permits shall be applied for and issued before any construction is started.
- (d) Prior to application for a conditional use permit, an applicant must obtain FAA approval and/or provide documentation that FAA approval is not needed.
- (e) Applicant must obtain FCC licensure and approval as required for various communications applications.
- (f) Applicant must submit proof of liability and worker's compensation insurance.
- (g) Proof that towers and their antennas have been designed by, and, following completion of construction, were inspected by a qualified and licensed professional engineer (at the applicant's expense) to conform to applicable state

structural building standards and all other applicable reviewing agencies and to conform with accepted electrical engineering methods and practices as specified in applicable provisions of the National Electrical Code.

- (h) Metal towers shall be constructed of, or treated with, corrosive resistant material.
- (i) The addition of antennas and associated equipment of an additional provider to an existing permitted tower shall be considered co-location and shall require a zoning permit and site plan approval. An amendment to a conditional use permit shall typically not be required.
- (j) All towers shall be reasonably protected against unauthorized climbing. The area around the base of the tower and guy wire anchors shall be enclosed by a fence with a minimum height of six feet with a locked gate.
- (k) All towers and their antennas shall utilize building materials, colors, textures, screening and landscaping that effectively blend the tower facilities within the surrounding natural setting and built environmentally to the greatest extent possible.
- (l) No part of any antenna or tower, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway or sidewalk without approval by the city through the zoning permit approval process.
- (m) All obsolete or unused towers and accompanying facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state which includes removal of all concrete to six feet below normal grade and surrounding area returned to normal grading. Electronic equipment shall not be removed in advance of removal of obsolete or unused towers. To ensure compliance, the applicant must submit a performance bond or letter of credit in an amount sufficient to cover all removal costs as determined by the city prior to the issuance of a building permit for the facility. Failure to remove the structure shall be cause for the city to remove the tower and associated equipment and assess the cost against the required bonding or letter of credit instrument.
- (n) The city shall conduct a final inspection of the site to ensure that all requirements of the city Code and all conditions of approval attached as part of the wireless communications permit are met prior to the start of operation of the facility.
- (o) For installations of a facility in an area that could potentially be accessed by the public (including rooftop installations or other locations that would be considered public versus occupational) a radio frequency hazard analysis and a yearly report must be submitted before December 31 of each year showing the results of on-site measurements at the site. A registered professional engineer hired by the provider must sign these measurements and report. At a minimum, the report must document any changes to the site over the course of the previous year.

- (p) All towers must be approved by the FAA and registered with the FCC prior to the issuance of a building permit for a new facility.

(Code 2007, § 150.123; Ord. No. 08-019, 11-4-2009)

105.04-VIII ALARM SYSTEMS

105.04.370 Purpose And Intent

105.04.380 Alarm Systems

105.04.370 Purpose And Intent

- (a) The purpose of this subchapter is to encourage security, fire, or medical alarm users and alarm businesses (including, but not limited to, sales, installation, and/or monitoring) to maintain the operation reliability and the proper use of alarm systems so as to limit unnecessary police, fire, and emergency medical responses to false alarms and alarm malfunctions.
- (b) This subchapter governs burglary, robbery, intrusion, fire, and medical emergency false alarms, provides for service fees for excessive false alarms, and provides for issuance of citations or assessment of service fees.

(Code 1997, § 1395.01; Code 2007, § 150.140; Ord. of 2-15-2000)

105.04.380 Alarm Systems

- (a) *False alarm warning notice.* Each time the county sheriff's office and/or the city fire department responds to a false alarm due to system malfunction or when no reason can be determined for the false alarm, the county sheriff's office shall issue a false alarm warning notice.
- (b) *Service fee.* A service fee for excessive false alarms shall be charged as follows:
- (1) No service fee shall be charged for the first three false alarms that occur within a 12-month period calculated from the date of the first alarm.
 - (2) More than three false alarms and up to and including six false alarms within a 12-month period shall result in a service fee. The fee shall be set from time to time by ordinance of the city council.
 - (3) More than six false alarms within a 12-month period shall result in a service fee. The fee shall be set from time to time by resolution of the city council.
 - (4) The city, based on false alarm response records provided by the county sheriff's office, will bill the service fee.
- (c) *Service fee exceptions.* No service fee shall be assessed if the false alarm is:

- (1) Caused by an electrical storm, tornado, or other act of God where there is clear evidence of physical damage to the alarm system;
 - (2) Caused by intermittent disruption of telephone circuits beyond the control of the alarm site owner;
 - (3) Caused by electrical power disruption or failure more than two hours beyond the control of the alarm owner; and/or
 - (4) At a location where the county sheriff's department has installed the VARDA or other similar alarms.
- (d) *Requirement of payment of service fee.* All false alarm service fees are due and payable within 30 days from date of invoice. In the event that false alarm service fees are not paid, as required by LEC 105.04.380 et seq., all delinquent accounts may be certified to the city administrator who shall prepare an assessment roll each year providing for assessment of the delinquent accounts against the respective property served. The assessment roll shall be delivered to the council for adoption on or before October 1 of each year. Upon approval of the assessment roll, the city administrator shall certify to the county auditor the amount due. The county auditor shall then enter the amount as part of the tax levy on the premises to be collected during the coming year. The action may be optional or subsequent to taking legal action to collect delinquent accounts.
- (e) *Violations.* A person commits an offense in violation of LEC 105.04.380 et seq. if the person suffers or permits three or more false alarms within a 12-month period.

(Code 1997, § 1395.03; Code 2007, § 150.141; Ord. of 2-15-2000)

105.04-IX AMATEUR RADIO TOWER ANTENNA

[105.04.390 Purpose And Intent](#)

[105.04.400 Permit Required](#)

[105.04.410 Amateur Radio Tower Antenna Permit](#)

[105.04.420 Planning Commission Review](#)

[105.04.430 City Council Review](#)

[105.04.440 Review And Revocation](#)

105.04.390 Purpose And Intent

The city's amateur radio tower antenna regulations are adopted in order to:

- (a) Facilitate the provision of amateur radio tower antenna services to the residents and businesses of the city;
- (b) Minimize adverse visual effects of amateur radio tower antennas through careful design and siting standards;
- (c) Avoid potential damage to adjacent properties from amateur radio tower antenna

failures through structural standards and setback requirements.

(Code 2007, § 150.155; Ord. No. 97-84)

105.04.400 Permit Required

No person shall install an amateur radio tower antenna higher than what is permitted in the zone in which it is located without first receiving the appropriate permit.

(Code 2007, § 150.156; Ord. No. 97-84)

105.04.410 Amateur Radio Tower Antenna Permit

- (a) Applications for an amateur radio tower antenna permit shall be submitted to the city planner, and shall include the following:
 - (b)
 - (1) A survey drawn to scale, which illustrates the parcel on which the antenna will be located, buildings located on the parcel, buildings located within 100 feet of the parcel, and the location of the proposed amateur radio tower antenna;
 - (2) A drawing to scale, which illustrates the antenna's relative size and visibility from adjoining property. Amateur radio tower antenna structures shall not exceed 120 feet in height. The amateur radio tower antenna must be set back from all adjoining property lines a distance no less than the height of the amateur radio tower antenna plus 15 feet;
 - (3) Documentation from the amateur radio tower antenna manufacturer showing construction details and construction materials;
 - (4) Mailing addresses for all property owners of record located within 350 feet of the subject property; and
 - (5) A copy of the applicant's FCC amateur radio license.

(Code 2007, § 150.157; Ord. No. 97-84)

105.04.420 Planning Commission Review

- (a) Upon receipt of a completed application, the city planner shall schedule a hearing before the planning commission, which shall be preceded by ten days' mailed notice to the record owners of property located within 350 feet of the parcel on which the amateur radio tower antenna will be located.
- (b) The planning commission shall make recommendations to the city council regarding the issuance of an amateur radio tower antenna permit and, in particular, concerning the following:

- (1) The reasonable necessity for the amateur radio tower antenna;
- (2) The appropriateness of the amateur radio tower antenna design;
- (3) The appropriateness of the amateur radio tower antenna's construction materials and assembly;
- (4) Maintenance requirements; and/or
- (5) The distance of the amateur radio tower antenna from adjoining property lines.

(Code 2007, § 150.158; Ord. No. 97-84)

105.04.430 City Council Review

- (a) Upon receipt of planning commission recommendations, the city council shall review the application. The city council may approve the application subject to conditions, table its review until a date certain, or deny the application for an amateur radio tower antenna permit. If the application is approved by the city council, an amateur radio tower antenna and a building permit shall be issued upon the execution of an amateur radio tower antenna agreement.
- (b) The terms of the amateur radio tower antenna agreement shall include the following:
 - (1) A list of the conditions of approval to the amateur radio tower antenna permit;
 - (2) A statement indicating that failure to comply with the conditions of approval shall result in the removal of the amateur radio tower antenna structure;
 - (3) A statement indicating that the expenses incurred by the city to enforce the provisions of the amateur radio tower antenna agreement shall be reimbursed by the applicant;
 - (4) A statement, which requires the applicant to use the procedures established by the FCC to resolve any complaints received relating to interference allegedly caused by the amateur radio tower antenna; and
 - (5) A statement indicating that the amateur radio tower antenna permit shall be valid during the term of the amateur radio tower antenna agreement and only while the applicant resides on the property.

(Code 2007, § 150.159; Ord. No. 97-84)

105.04.440 Review And Revocation

The city planner shall inspect the property at least annually for compliance with the provisions of the amateur radio tower antenna agreement. If the permittee does not comply with the terms of the agreement, a hearing shall be scheduled before the city council for determining whether to terminate the agreement. The hearing shall be preceded by ten days' mailed notice to occupants of property within 350 feet of the lot on which the amateur radio tower antenna is located.

(Code 2007, § 150.160; Ord. No. 97-84)

105.04-X RESTRICTIVE SOIL OVERLAY DISTRICT

105.04.450 Legislative Findings And Purposes

105.04.460 District Boundaries

105.04.470 Restrictive Soils And Development Permit Provisions

105.04.480 Responsibility; Effect

105.04.450 Legislative Findings And Purposes

- (a) *Findings.* The city finds that certain areas within the municipality are characterized by certain soil types, slopes, and water levels which, without proper corrective action, are unsuitable for development of any type; inappropriate development in these areas increases soil erosion and sedimentation, the introduction of toxic materials into groundwater, encourages pollution, destroys ecological and natural resources, and requires expenditures of public funds to correct deficiencies, contributing to the detriment of the health, safety, and welfare of the citizens of the city.
- (b) *Purpose.* The purpose of this subchapter is to provide for the regulation of development on restrictive soils in a way as to minimize the risk of environmental damage and to protect private homeowner's and governmental units from incurring high maintenance and capital costs resulting from the necessity to correct deficiencies encountered as a result of development on poorly suited soils.

(Code 1997, § 310.01; Code 2007, § 150.200)

105.04.460 District Boundaries

LEC 105.04.450 et seq. shall apply to areas within the city which are delineated on the official soils maps of the city and have soil types set forth in Table A in LEC 105.04.470(d)(2). For the purposes of determining the application of LEC 105.04.450 et seq. to any particular parcel of land, the above-referenced map shall be on file in the office of the zoning administrator and shall be available for inspection and copying.

(Code 1997, § 310.02; Code 2007, § 150.201)

105.04.470 Restrictive Soils And Development Permit Provisions

- (a) *Permit.* Except as provided in LEC 105.04.450 et seq., no person shall erect any structure within the restrictive soils overlay district without having first obtained a written permit from the zoning administrator authorizing erection of the structure.
- (b) *Exceptions.* The permit requirements established by LEC 105.04.450 et seq. shall not apply to:
- (1) Any public agency or its contractor or any person performing work within a right-of-way of any public agency pursuant to a permit issued by the public agency;
 - (2) Emergency work necessary to preserve life or property. When emergency work is performed under LEC 105.04.450 et seq., the person performing it shall report the pertinent facts relating to the work to the zoning administrator prior to the commencement of the work. The zoning administrator shall review the facts and determine whether an emergency exists and shall, by written memorandum, authorize the commencement of the emergency exception. The person commencing emergency work shall, within ten days following the commencement of that activity, apply for the issuance of a restrictive soils development permit and on the issuance of the permit may be required to perform the work as is determined to be reasonably necessary to fulfill the purposes of LEC 105.04.450 et seq.; and/or
 - (3) Development consisting of the corrective alteration, repair, or maintenance of any lost full use of land existing on the date of adoption of LEC 105.04.450 et seq.
- (c) *Application for and processing of permit.*
- (1) A separate application for a permit shall be made to the zoning administrator for each development for which a permit is required except that only one application need be made for two or more acts which are to be done on the same parcel.
 - (2) The application shall include a map of the site and a delineation of the soils found in the site along with a plan and cost estimate of the proposed development and the other engineering data, surveys, and other information and material as may be required in order to determine the effects of the development on the affected land and the suitability of the soils for the development. See LEC 105.04.740 to determine if a stormwater management plan or an erosion and sediment control plan is required.
 - (3) When proposed work includes construction or alterations of structures, the work shall be submitted with the application, along with detailed drawings of any special foundation structures and/or special provisions for on-site sewage disposal.

(d) *Issuance of permit.* The following standards shall govern the issuance of permits for development within the restrictive soils overlay district.

- (1) Development on restrictive soils shall not be permitted until an investigation and subsequent report has been completed and presented to the zoning administrator by a professional engineer or soil scientist experienced and knowledgeable in the practice of soils and soils mechanics, and until the recommendations of the investigation have been incorporated into the design plan and specification. No permit shall be issued for development on soils deemed by LEC 105.04.450 et seq. to be unsuitable.
- (2) Table A, below, is a grouping of restrictive soils which are incorporated and made a part of LEC 105.04.450 et seq. The following soils groupings set forth in Table A are highly restrictive for residential, commercial, industrial, or other development due to high water table (three feet or less), steep slope conditions, high shrink swell potential, or high frost action potential. No development permit shall be issued unless it has first been demonstrated by the developer that buildings shall be constructed in accordance with the standards found in the state building code for appropriate soil conditions, and that a soil absorption disposal system can satisfactorily function in accordance with municipal regulations. The standards are incorporated by reference into LEC 105.04.450 et seq.

Table A

<i>Soil Group/Slope</i>	<i>Soil Group/Slope</i>	<i>Soil Group/Slope</i>
2 D, E, F	298	859 D, E, F
7 D, E, F	301	860
8 D, E, F	302 D, E, F	861
12 D, E, F	340	896
49 D, E, F	342 D, E, F	1013
100	367	1027 D, E, F
132 D, E, F	453 D, E, F	1029 D, E, F
151 D, E, F	454 D, E, F	1039 D, E, F
153 D, E, F	460	1040
155 D, E, F	472	1813
158 D, E, F	488	1819 D, E, F
169 D, E, F	504 D, E, F	1820

174	529	1827 D, E, F
177 D, E, F	857	1848 D, E, F
259	858	
Notes to table: Letter references (A, B, C, D, E, or F) indicate a slope range.		
<i>Symbol</i>	<i>Slope Description</i>	
	<i>Simple</i>	<i>Complex</i>
A	Nearly Level	Nearly Level
B	Gently Sloping	Undulating
C	Sloping	Rolling
D	Moderately Sloping	Hilly
E	Steep	Steep
F	Very Steep	Very Steep
Notes to table: If no slope symbol is specified, the entire soil type is restricted, regardless of slope.		

(e) *Conditions.* A special permit may be approved subject to compliance with conditions reasonable and necessary to ensure compliance with the requirements contained in the ordinance which are specifically set forth in the permits. The conditions may, among other matters, limit the size, kind, or character of the proposed development, require the construction of other structures, including special foundations and soil stabilization structures, establish required monitoring procedures, require the alterations of the site as may be necessary, and/or require the conveyance to the city or other public entity of certain lands or interests in the land.

(f) *Time of permit; extensions; renewals.*

(1) A permittee shall begin the work authorized by the permit within 60 days from the date of issuance of the permit unless a different date for the commencement of work is set forth in the permit. The permittee shall complete the work authorized by the permit which in no event shall exceed more than 12 months from the date of issuance. The permittee shall notify the zoning administrator at least 24 hours prior to the commencement of work. If the work is not commenced as specified in LEC 105.04.450 et seq., then the permit shall become void. If, prior to the date established for commencement of work, the permittee makes written request to the zoning administrator for an extension of time to commence

the work, setting forth the reasons for the required extension, the zoning administrator may grant the extension. A permit which has become void may be renewed at the discretion of the zoning administrator upon payment of renewal fee. If the zoning administrator does not grant the renewal, a permit for the work may be granted only upon compliance with the procedures established for any original application.

- (2) The permittee shall notify the zoning administrator in writing of the termination of the work authorized and no work shall be deemed to have been completed until approved in writing by the zoning administrator following the written notification.
- (3) The zoning administrator may cause inspections of the work to be made periodically during the course of the work by the zoning administrator or a member of the city staff and shall cause a final inspection to be made following the completion of the work.

(g) *Variances and appeals.* Variances and appeals are administered pursuant to the zoning code.

(Code 1997, § 310.04; Code 2007, § 150.202; Ord. No. 08-024, 4-20-2010)

105.04.480 Responsibility; Effect

- (a) *Responsibility.* Neither the issuance of a permit nor compliance with the conditions of the permit, nor with the provisions of LEC 105.04.450 et seq. shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit under this section serve to impose any liability of the city or its officers or employees for injury or damage to persons or property. A permit issued pursuant to LEC 105.04.450 et seq. does not relieve the permittee of the responsibility for securing and complying with any other permit which may be required by any other law, ordinance, or regulation.
- (b) *Conflicts.* Whenever LEC 105.04.450 et seq. is in conflict with another section, statute, or regulation, the more restrictive requirement shall govern.

(Code 1997, § 310.05; Code 2007, § 150.203)

105.04-XI WETLAND PROTECTION AND PRESERVATION OVERLAY DISTRICT (WPP)

[105.04.490 Legislative Findings And Purposes](#)

[105.04.500 District Boundaries](#)

[105.04.510 Definitions](#)

[105.04.520 Wetland Permit Provisions](#)

[105.04.530 Responsibility; Effect](#)

105.04.490 Legislative Findings And Purposes

- (a) *Findings.* The city finds that there are many wetlands within the municipality which, as part of the ecosystem, are critical to the health, safety, and welfare of the land, animals, and people within the city and the metropolitan area; that existing and potential development within the city creates increasing ecological problems and demands upon these resources; and that these problems and demands have the effect of polluting, eliminating, or altering both the wetlands and their functions (and the processes associated with wetlands and their functions) which if preserved and maintained constitute important physical, aesthetic, recreational, and economic assets of existing and future residents of the city.
- (b) *Purpose.* The purpose of this subchapter is to provide for the protection, preservation, proper maintenance, and use of the city's wetlands, to minimize the disturbance to them and to prevent damage from excessive sedimentation, eutrophication, or pollution, to prevent loss of fish or other beneficial aquatic organisms, and/or loss of wildlife and vegetation or the habitants of the same; to provide for the protection of the city's probable fresh water supplies from the dangers of drought, overdraft, pollution, or mismanagement; to secure safety from floods; to reduce the financial burdens imposed upon the communities through rescue and relief efforts occasioned by the occupancy or use of areas subject to periodic flooding to prevent loss of life, property damage, and the losses and risks associated with flood conditions; to preserve the location, character, and extent of natural drainage courses.

(Code 1997, § 315.01; Code 2007, § 150.215)

105.04.500 District Boundaries

LEC 105.04.500 et seq. shall apply to wetland areas within the city which are delineated on the official wetland maps of the city and have soil types as set forth in Table A of LEC 105.04.520(d)(1). For the purposes of determining the application of LEC 105.04.500 et seq. to any particular parcel of land or water, the above-referenced map shall be on file in the office of the zoning administrator and shall be available for inspection and copying.

(Code 1997, § 315.02; Code 2007, § 150.216)

105.04.510 Definitions

Unless specifically defined in LEC 105.04.500 et seq., common definitions, words, and phrases used in LEC 105.04.500 et seq. shall be interpreted so as to give them the same meaning as they have in common usage throughout this Code and are found in LEC 1.08.

(Code 1997, § 315.03; Code 2007, § 150.217)

105.04.520 Wetland Permit Provisions

- (a) *Permit.* Except as provided in LEC 105.04.500 et seq., no person shall perform any of the following actions or otherwise alter the ecological characteristics of a wetland without first having obtained a written permit from the zoning administrator authorizing the alteration: deposit or remove any material within a wetland; excavate within a wetland; construct, alter, or remove any structure within, upon, or across a wetland; plant or remove any vegetation within a wetland; alter any embankment within a wetland, or change the flow of water through the wetland. The above actions shall be collectively referred to as "work."
- (b) *Exceptions.* The permit requirements established by LEC 105.04.500 et seq. shall not apply to:
 - (1) Any public agency or its contractor or any person performing work within a right-of-way of any public agency pursuant to a permit issued by the public agency;
 - (2) Emergency work necessary to preserve life or property. When emergency work is performed under LEC 105.04.500 et seq., the person performing it shall report the pertinent facts relating to the work to the zoning administrator prior to the commencement of the work. The zoning administrator shall review the facts and determine whether an emergency exists and shall, by written memorandum, authorize the commencement of the emergency exception. A person commencing emergency work shall, within ten days following the commencement of that activity, apply for the issuance of a wetlands permit and on the issuance of the permit may be required to perform the work as is determined to be reasonably necessary to correct any impairment to the wetland occasioned by the work; and/or
 - (3) Work consisting of the alteration, repair, or maintenance of any conforming use of land existing on the date of adoption of the ordinance codified in LEC 105.04.500 et seq.
- (c) *Application for and processing of permit.*
 - (1) A separate application for a permit shall be made to the zoning administrator for each work activity for which a permit is required except that only one application need be made for two or more acts which are to be done on the same parcel. The application shall include a map of the site and a plan and a cost estimate of the proposed development and the other engineering data, surveys, and other information and material as may be required in order to determine the effects of the development on

the affected land and water uses, such as extent of wetland, a description of the amount and location of work to be performed, a survey of the ecological characteristics of the wetland, maps and data on soils, water table and the flood capacity of the wetland, and copies of permits or reports from state department of natural resources, Washington Soil and Water Conservation District. When proposed work includes construction or alteration of structures, three sets of plans and specifications for the work shall be submitted with the application.

- (2) The wetlands permit application shall be processed in accordance with the procedures specified for the processing of conditional use permits, and the wetlands permit may be processed at the same time and in connection with the processing of an application for a building permit or any other permit required to be granted by ordinance of the city.
- (3) See LEC 105.04.740 to determine if a stormwater management plan or an erosion and sediment control plan is required.

(d) *Issuance of permit.*

- (1) *Restricted development.* Table A, below, shows a grouping of wetland and wetland-prone soils on which development is restricted.

Table A

75	265	540
113	266	541
120	325	543
123	329	544
161	408	552
162	449	862
166	452	863
170	456	1033
189	468	1055
225	481	1821
264	507	1847

- (2) *No special permits.* No special permits shall be issued unless the zoning administrator, engineer, and soil scientist find and determine that the proposed work complies with the following general and specific, if

applicable, requirements.

(3) *Filling into wetlands*. It is the policy of the city to limit the placement of any fill material into wetlands in order to preserve the natural character of the wetlands, and maintain suitable aquatic habitat for fish and wildlife, and provide for sound surface water management and flood control.

a. Placement in conformance with these rules shall be permitted in the following cases, subject to wetland permit, where applicable:

1. Development of beach areas;
2. Protection of shoreline from continued erosion by placement of rip-rap materials;
3. Recovery of shoreland lost by erosion or other natural forces which has occurred within the last five years;
4. Limited filling to allow raising of previous development constructed at too low an elevation; and/or
5. Provide navigational access from riparian properties, where access cannot be gained by alternative means.

b. Placement shall not be permitted in the following cases:

1. To achieve vegetation control;
2. To create upland areas for development or subdivision;
3. To stabilize lake and stream beds which cannot support fill materials (e.g., excessive depths of muck, steep bank, or bed slope, and the like); and/or
4. To stabilize areas of flowing water, active springs, or subject to substantial wave action, draft, sedimentation, or other disruptive forces.

c. Except as otherwise provided in LEC 105.04.500 et seq., those wetlands which serve the following functions shall not be altered:

1. Those that have a continuing scientific or educational value due to their location, size, flora, fauna, and other characteristics of the wetland;
2. Those that clearly contribute to stormwater flood control or to the maintenance of domestic water supplies, minimum desirable stream flows, or lake water levels;
3. Those that significantly contribute to the improvement of water quality;

4. Those that currently or potentially serve a useful recreation function for a significant number of users;
5. Those that make a significant contribution to scenic views;
6. Those that provide significant resting, nesting, or spawning or breeding areas for water fowl, other birds, fish, or mammals; and
7. Those that contain unique/endangered plant species of areas of historical significance.

d. A permit shall be required for all other filling and shall be granted provided:

1. The project is not unduly detrimental to the public purposes listed in M.S.A. § 103E.011, as it may be amended from time to time, including, but not limited to, fish and wildlife habitat, navigation, water supply and stormwater retention; filling of posted fish spawning areas is prohibited;
2. The fill consists of clean inorganic material that is free of pollutants, nutrients, rubbish, refuse, and garbage as defined in LEC 1.08. The maximum particle size shall be eight inches;
3. The existence of a stable, supporting foundation is established by appropriate means, including soil boring data where deemed necessary by the city engineer;
4. Where erosion protection is deemed necessary by the city engineer, the site conditions and fill material are capable of being stabilized by an approved existing land uses on the affected public water; and
5. The maximum extent of filling which may be permitted in a wetland shall be determined by flood storage and nutrient stripping capacity requirement for the wetland watershed.

(4) *Excavation of public waters.*

- a. *Policy and general restrictions.* It is the policy of the city to discourage the excavation of materials from the beds of public waters in order to preserve the natural character of public waters and their shorelands and maintain suitable aquatic habitat for fish and wildlife. Excavation shall be permitted provided the conditions of Minn. R. § 6115.0200, Excavation of Public Waters, as it may be amended from time to time, are met, except:

1. Where it is intended to gain access to navigable water depths when access can be reasonably attained by utilizing a temporary or permanent dock;
2. Where inland excavation is intended solely to extend riparian rights to non-riparian lands, or to promote the subdivision and development of non-riparian lands; and/or
3. Where the proposed excavation will be detrimental to significant fish and wildlife habitat or protected vegetation.

b. *Dredging.*

1. *General standards.* A permit shall be required for all dredging subject to the following general standards:
 - i. The project must be adequate in relation to appropriate geologic and hydrologic factors, including, but not limited to, quantity and quality of local drainage at the site; type of sediment/soil strata and underground formations in the vicinity; life expectancy of the dredging with respect to bed load, long-shore drift and siltation patterns in the project vicinity; and protection of the water body from increased seepage, pollution, and other hydrologic impacts.
 - ii. Adequate and stable on-land spoil disposal sites located above the ordinary high water mark and outside of floodway districts must be available for containment of dredged spoils, and project plans must include provisions for sodding, seeding, or otherwise properly-protecting these spoils. Dredge spoils may be placed below the ordinary high water mark only when the city determines that one or more beneficial public purposes will be enhanced.
 - iii. The proposed project must represent the minimal impact solution to a specific need with respect to all other reasonable alternatives such as weed removal without dredging, beach sanding, excavation above the bed of public water, less extensive dredging in another area of the public water, or management of an alternative water body for the intended purposes.
 - iv. The dredging must be limited to the minimum dimensions necessary for achieving the desired

purpose. Where excavation is proposed on a water body that is perched on an impervious stratum, soil borings must show that the proposed excavation will not rupture the impervious stratum.

2. *Additional specific standards.* The following categories of dredging projects shall be permitted, subject to the following specific restrictions.

- i. *Beach development.* The existing site conditions will not provide a suitable beach using a sand blanket alone. The area to be dredged shall be consistent with the general dimensions authorized for beach sanding under Minnesota Rules. The depth of dredging needed to reach a suitable beach stratum shall not be excessive considering anticipated site maintenance and desired water depths.
- ii. *Wetland improvement.* The dredging shall be limited to the removal of accumulated sediment or rock debris where the materials constitute an impairment to the use of a common navigational corridor, impede reasonable access, or where it is intended to create open areas in aquatic vegetation to improve fish or wildlife habitat.

(5) *Specific requirements.*

- a. Work in the wetland will not be performed during the breeding season or water fowl or fish spawning season.
- b. No part of any septic tank system or of another sewage disposal system requiring on-land or in-the-ground disposal of waste shall be located closer than 75 feet from the edge of a wetland unless it can be shown that no effluent can reach the wetland because of existing physical characteristics on the site. On-site sewage disposal systems shall be permitted only if they meet state regulations and local regulations.
- c. Runoff from developed property and construction projects adjacent to a wetland may be directed to the wetland only when reasonably free of silt and debris and chemical pollutants, and at rates which will not disturb wetland vegetation or increase turbidity.

- d. No liquid waste shall be discharged in a wetland or disposed of in a manner that would cause the waste to enter the wetland.
- e. Wetlands may not be used for disposal of material which logically should be disposed of in a landfill, and no part of a wetland shall be used for a sanitary landfill.
- f. Floor elevation of buildings located within the district, if used for living quarters or work space, must be at least three feet above the seasonal high water level of the wetland.
- g. No development shall be allowed in the wetland protection district which will endanger the health, safety, and welfare of persons and which will result in unusual maintenance costs of road and parking areas or the breaking or leaking of utility lines.
- h. Removal of vegetation within the wetlands shall be permitted only when and where work within the wetland has been approved in accordance with the standards of LEC 105.04.500 et seq.
- i. Removal of vegetation within the district but outside the wetland shall be limited to that reasonably required for the placement of structures and the use of the property.

(e) *Conditions.* A special permit may be approved subject to compliance with conditions reasonable and necessary to ensure compliance with the requirements contained in subsection (d) of this section, which are specifically set forth in the permits. The conditions may, among other matters, limit the size, kind, or character of the proposed work, require the construction of other structures, require replacement of vegetation, require monitoring procedures, stage the work over time, require the alteration of the site design to ensure buffering, or require the alteration of the site design to ensure buffering, or require the conveyance to the county or another public entity of certain lands or interests in the land.

(f) *Time of permit; extensions; removals.*

- (1) a. A permittee shall begin the work authorized by the permit within 60 days from the date of issuance of the permit unless a different date for the commencement of work is set forth in the permit. The permittee shall complete the work authorized by the permit within the time limits specified in the permit which in no event shall exceed more than 12 months from the date of issuance. The permittee shall notify the zoning administrator at least 24 hours prior to commencing of the work. If the work is not commenced as specified in LEC 105.04.500 et seq., then the permit shall become void. If, prior to the date established for commencement of work

the permittee makes written request to the zoning administrator for any extension of time to commence the work setting forth the reasons for the required extension, the zoning administrator may grant the extension.

b. A permit which has become void may be renewed at the discretion of the zoning administrator upon payment of a renewal fee. If the zoning administrator does not grant such a renewal, a permit for the work may be granted only upon compliance with the procedures established for any original application.

(2) The permittee shall notify the zoning administrator in writing of the termination of the work authorized and no work shall be deemed to have been completed until approved in writing by the zoning administrator following the written notification.

(3) The zoning administrator may cause inspection of the work to be made periodically during the course of the work by the zoning administrator or a member of the city staff and shall cause a final inspection to be made following the completion of the work.

(g) *Variances and appeals.* Variances and appeals shall be handled as proscribed in the zoning code.

(Code 1997, § 315.04; Code 2007, § 150.218; Ord. No. 08-024, 4-20-2010)

105.04.530 Responsibility; Effect

(a) *Responsibility.* Neither the issuance of a permit nor compliance with the conditions of the permit, nor with the provisions of LEC 105.04.500 et seq. shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit under LEC 105.04.500 et seq. serve to impose any liability on the city or its officers or employees for injury or damage to persons or property. A permit issued pursuant to LEC 105.04.500 et seq. does not relieve the permittee of the responsibility for securing and complying with any other permit which may be required by any other law, ordinance, or regulation.

(b) *Severability.* If any part of LEC 105.04.500 et seq. is held to be unconstitutional or otherwise illegal, the remainder of LEC 105.04.500 et seq. shall be deemed and held to be valid and remain in force and effect as if the portion had been included in LEC 105.04.500 et seq. If LEC 105.04.500 et seq. or any provision in LEC 105.04.500 et seq. is held to be inapplicable to any person, property or work, the holding shall not affect the applicability of LEC 105.04.500 et seq. to any other person's property or work.

- (c) *Special assessment.* The land within a designated wetlands district area which is restricted by LEC 105.04.500 et seq. and for which a development or other restrictive easement is conveyed to the city shall not be subject to special assessments to defray the costs of other municipal improvements for which the assessments are authorized pursuant to M.S.A. ch. 429, as it may be amended from time to time.
- (d) *Conflicts.* Whenever LEC 105.04.500 et seq. is in conflict with another section, statute, or regulation, the more restrictive requirement shall govern.

(Code 1997, § 315.05; Code 2007, § 150.219)

105.04-XII INTERSTATE CORRIDOR OVERLAY DISTRICT

105.04.540 Purpose

105.04.550 Permitted Uses And Structures

105.04.560 Accessory Uses And Structures

105.04.570 Conditional Uses

105.04.580 Minimum District Requirements; Interim Uses

105.04.590 Minimum District Requirements; Long-Term Uses

105.04.600 Minimum District Requirements; All Uses

105.04.610 Building Type And Construction

105.04.620 SAC Unit Determination

105.04.540 Purpose

The interstate corridor overlay district shall provide special requirements and performance standards that shall be imposed in conjunction with zoning districts adopted for land located in the interstate highway corridor. The purpose of this district is to manage changes in land use that may occur along the interstate corridor as a result of improved highway access and frontage road development. To accomplish this objective, this overlay district sets forth two sets of performance standards which must be met by all proposed users in the corridor.

(Code 1997, § 320.01; Code 2007, § 150.230)

105.04.550 Permitted Uses And Structures

All uses which are permitted in the underlying zoning district.

(Code 1997, § 320.02; Code 2007, § 150.231)

105.04.560 Accessory Uses And Structures

All necessary uses which are permitted in the underlying zoning district.

(Code 1997, § 320.03; Code 2007, § 150.232)

105.04.570 Conditional Uses

All conditional uses which are permitted in the underlying zoning district.

(Code 1997, § 320.04; Code 2007, § 150.233)

105.04.580 Minimum District Requirements; Interim Uses

- (a) Uses not served by public sewer and water that are not intensive (urban) land uses, and demand negligible increases in public services, may be approved as interim uses.
- (b) These uses shall be subject to the following minimum performance standards:
 - (1) Minimum lot size of ten acres;
 - (2) No sewer discharge exceeding eight SAC units per ten acres;
 - (3) No public utility service is required on the part of the city;
 - (4) All projected traffic generated by the use can be accommodated with existing streets, requiring no improvements at the cost of the city or the public;
 - (5) An adequate supply of off-street parking and off-street loading space shall be provided;
 - (6) The use will require no additional public safety services or needs;
 - (7) No noise abatement problems shall exist that could potentially require public corrective action;
 - (8) The proposed land use will be compatible both in terms of internal site plans, and with regard to adjacent land uses;
 - (9) Where potential land use compatibility problems exist, site plans shall be designed to eliminate the conflicts through redesign or through the incorporation of features that mitigate the impacts of the conflicts;
 - (10) Land use plans provide for future development or redevelopment at the time that public water and sewer services are provided;
 - (11) The site plan shall provide for adequate drainage systems which do not pose pollution problems, see LEC 105.04.740 to determine if a stormwater management plan or an erosion and sediment control plan is required;
 - (12) The use maintain standards of architectural design and building quality consistent with the uniform building code and all other applicable city codes;
 - (13) The proposed use is consistent with the city's comprehensive plan; and

- (14) The proposed use will not create fiscal problems for the city, or adversely impact the health, safety, or welfare of the city.

(Code 1997, § 320.05; Code 2007, § 150.234; Ord. No. 08-024, 4-20-2010)

105.04.590 Minimum District Requirements; Long-Term Uses

- (a) Uses that are urban in nature and require public water and sewer service, as well as other major public services, shall be classified as "long-term users."
- (b) These uses shall be subject to the following minimum performance standards:
- (1) Public sewer and water extensions, provided at the user's expense;
 - (2) If projected traffic generated by the proposed use exceeds the capacity of existing streets, additional improvements shall be provided at the expense of the land developer;
 - (3) All necessary noise abatement improvements will be provided at no cost to the city;
 - (4) An adequate supply of off-street parking and off-street loading space shall be provided;
 - (5) The proposed land uses will be compatible both in terms of internal site plans, and with regard to adjacent land uses;
 - (6) Where potential land use compatibility problems exist, site plans shall be designed to eliminate the conflicts through redesign or through the incorporation of features that mitigate the impact of the conflicts;
 - (7) The site plan shall provide for adequate drainage systems which do not pose pollution problems, see LEC 105.04.740 to determine if a stormwater management plan or an erosion and sediment control plan is required;
 - (8) The use shall maintain standards of architectural design and building quality consistent with the uniform building code and all other applicable city codes;
 - (9) The proposed use is consistent with the city's comprehensive plan; and
 - (10) The proposed use will not create fiscal problems for the city or adversely impact the health, safety, or welfare of the city.

(Code 1997, § 320.06; Code 2007, § 150.235; Ord. No. 08-024, 4-20-2010)

105.04.600 Minimum District Requirements; All Uses

- (a) The following minimum requirements shall be observed in the overlay district, subject to additional requirements, exceptions and modifications set forth in this Code.
- (b)
 - (1) Uses permitted in the underlying zoning district shall be subject to the lot area and setback requirements specified in the applicable district.
 - (2) Lot area, setback, building requirements may be increased under the overlay district to provide sound site planning and eliminate potential conflicts between land uses.

(Code 1997, § 320.07; Code 2007, § 150.236)

105.04.610 Building Type And Construction

No galvanized or unfinished steel, galvanized or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive design finish, such as Corten steel, shall be permitted. Any exposed metal or fiberglass finish on all buildings shall be limited to 50 percent of any one wall. Exterior building finishes shall consist of materials comparable in grade and quality to the following: brick; natural stone; decorative concrete block; cast-in-place concrete or precast concrete panels; wood, provided the surfaces are finished for exterior use and wood of proven exterior durability is used such as cedar, redwood, and the like; curtain wall panels of steel, fiberglass, and aluminum (non-structural, non-load bearing), provided the panels are factory fabricated and finished with a durable non-fade surface with fasteners of a corrosive-resistant design; glass curtain wall panels; stucco.

(Code 1997, § 320.08; Code 2007, § 150.237)

105.04.620 SAC Unit Determination

- (a) SAC unit calculations will be based upon the criteria established by the metropolitan waste control commission, which state that one SAC unit is equivalent to 274 gallons of flow per day.
- (b) The following table contains a list of facilities is illustrative of the SAC unit requirements that a proposed project, development or addition to an existing structure would have to meet:

<i>Type of Facility</i>	<i>Parameter</i>	<i>SAC Units</i>
Arenas	110 seats	1
Auditoriums	110 seats	1
Automobile service:		

Fast service less than four hours per car	2 service bays	1
Major service more than four hours per car	14 employees	1
Ballroom:		
Facility without liquor service	825 square feet	1
Facility with liquor service	590 square feet	1
Bank	2,400 square feet	1
Banquet room:		
Food catered	2,060 square feet	1
Food catering with dishwashing	1,180 square feet	1
Food preparation and dishwashing	825 square feet	1
Food preparation and dishwashing without liquor	590 square feet	1
Barbershop	4 chairs	1
Beauty salon	4 stations	1
Boardinghouse	5 beds	1
Body shop (no vehicle washing)	14 employees	1
Bowling alleys (does not include bar or dining area)	3 alleys	1
Camps:		
Children's camps (central toilet and bath)	50 gallons per occupant at 274 gallons	1
Day camps (no meals)	10 gallons per occupant at 274 gallons	1
Labor/construction camps	50 gallons per occupant at 274 gallons	1
Resorts (housekeeping cabins)	60 gallons per occupant at 274 gallons	1
Travel trailer parks with individual water and sewer hookup	100 gallons per site at 274 gallons	1
With central toilet and showers	75 gallons per site at 274 gallons	1
Sanitary dump (site without hookup)	10 gallons per site at 274 gallons	1

Schools:		
Sunday	55 students	1
Elementary	18 students	1
Nursery		
Number of students licensed for	14 students	1
(Secondary)	14 students	1
Service stations:		
Gas pumping only		1
With service center		2
With service center and car wash		8
Swimming pools (public)	900 square foot pool area	1
Tennis courts (public)	1 court	2
Theater	64 seats	1
Theater (drive-in)	55 parking spaces	1
Warehouse	7,000 square feet	1

- (c) The SAC unit for a facility not included in the above table list will be determined by the metropolitan waste control commission. A request for SAC unit determination must be made prior to the issuance of the building permits.

(Code 1997, § 320.09; Code 2007, § 150.238)

105.04-XIII SHORELAND DISTRICT

[105.04.630 Purpose](#)

[105.04.640 Intent](#)

[105.04.650 Definitions](#)

[105.04.660 Administration](#)

[105.04.670 Shoreland Classification](#)

[105.04.680 Shoreland Standards](#)

[105.04.690 Nonconformities](#)

[105.04.700 Subdivision/Platting Provisions](#)

105.04.630 Purpose

- (a) The shorelands within the city are designated as shoreland district. Regulations set forth in this subchapter shall govern land use and other activities within this district. The classification of the lakes shall govern the use, alteration, and

development of land within the shoreland district.

- (b) The uncontrolled use of shorelands adversely affects the public health, safety, and general welfare by contributing to pollution of public waters and by impairing the local tax base. In furtherance of the policies declared in M.S.A. chs. 103F, 103G, 115, 116, 394, and 462, as they may be amended from time to time, the commissioner provides the following minimum standards and criteria for the subdivision, use, and development of the shorelands of public waters. The standards and criteria are intended to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of water and related land resources of the state.

(Code 1997, § 325.01; Code 2007, § 150.250)

105.04.640 Intent

It is the intent of the city to:

- (a) Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting from the facilities;
- (b) Regulate alteration of shorelands of public waters to prevent excessive sediment pollution, increased water runoff, excessive nutrient runoff pollution;
- (c) To preserve and enhance the unique aesthetic appearance and ecological value of the shoreland; and
- (d) Regulate the construction of buildings and changes of land use in shorelands to minimize property damage during periods of high water.

(Code 1997, § 325.02; Code 2007, § 150.251)

105.04.650 Definitions

Unless specifically defined below, words or phrases used in LEC 105.04.630 et seq. shall be interpreted so as to give them the same meaning as they have in LEC 1.08 with common usage in this and all other sections of this Code. All distances, unless otherwise specified, shall be measured horizontally.

(Code 1997, § 325.03; Code 2007, § 150.252)

105.04.660 Administration

- (a) The city will provide for the administration and enforcement of their shoreland management controls by establishing permanent procedures for building

construction, installation of sewage treatment systems, and grading and filling.

- (b) (1) *Permits required.* A permit is required for the construction of buildings or building additions (including the related activities as construction of decks and signs), installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by LEC 105.04.680(e). Application for a permit shall be made to the city on the forms provided. The application shall include the necessary information so that the city can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) *Variance.*

- a. Variance requests will be considered pursuant to the procedures set forth in the zoning code.
- b. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

(3) *Notifications to the department of natural resources.*

- a. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivision or plats must include copies of the subdivision or plat.
- b. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in subsection (b) (3)a of this section shall also include the board of adjustment's summary of the public record and testimony and the findings of facts and conclusions which supported the issuance of the variance.
- c. A copy of approved amendments and subdivisions or plats and final decisions granting 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.

(Code 1997, § 325.04; Code 2007, § 150.253)

105.04.670 Shoreland Classification

- (a) The public waters of the city have been classified below, consistent with the criteria found in Minn. R. ch. 6120.3000, as it may be amended from time to time, and the Protected Waters Inventory Map for Washington County, Minnesota. The shoreland area for the water bodies listed below shall be defined in LEC 105.04.650 and as shown on the city's shoreland management area map.
- (b) The classes of public waters for the city are natural environment lakes, recreational development lakes, and tributary streams.
- (1) *Natural environment lakes.* Natural environment lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development, such as high water tables, exposed bedrock and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

<i>DNR I.D.#</i>	<i>Lake Name</i>	<i>Location</i>	<i>OHW</i>	<i>100-Year Elevation</i>
820074 00	Horseshoe	Sec. 25	876. 8	
820099 00	Clear	Sec. 2, 11		
820100 00	Unnamed	Sec. 4		
820105 00	Berschen's Pond	Sec. 10		
820107 00	Sunfish	Sec. 14	896. 4	899
820108 00	Friedrich Pond	Sec. 15, 22		913.0
820110 00	Downs	Sec. 24	889. 1	893
820111 00	H.J. Brown Pond	Sec. 26		
820112 00	Rose (Sunfish)	Sec. 25, 36		
820113	Goose	Sec. 27, 34,	924.	

00		35	4	
82011601	Armstrong (north of 10th Street)	Sec. 28	1020.3	
82011602	Armstrong (south of 10th Street)	Sec. 33	1019.1	

- (2) *Recreational development lakes.* Recreational development lakes are generally medium-sized lakes of varying depths and shapes with a variety of land forms, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences. Many of these lakes have capacities of accommodating additional development use.

<i>DNR I.D.#</i>	<i>Lake Name</i>	<i>Location</i>	<i>OH W</i>	<i>100-Year Elevation</i>
82-101	DeMontreville	Sec. 4, 5, 9	929.3	931.0
82-103	Olson	Sec. 8, 9	929.3	931.0
82-104	Jane	Sec. 9, 10	924	925.0
82-106	Elmo	Sec. 13, 14, 23, 24, 26	885.6	889

- (3) *Tributary streams.* Tributary stream segments consist of watercourses mapped in the protected waters inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics.

<i>Location</i>	<i>Stream Name</i>
Sec. 33	Unnamed to Wilmes Lake
Sec. 16, 21, 22	Raleigh Creek North (to Eagle Point Lake)
Sec. 22, 23, 27	Raleigh Creek South (Eagle Point Lake to Lake Elmo)
Sec. 25	Unnamed Tributary

- (c) The permitted and conditional uses allowed in the underlying zoning district shall be those allowed in the natural environment lakes, recreational development

lakes, and tributary streams shoreland districts.

<i>Land Use Matrix</i>											
<i>Land Uses</i>	<i>Zoning Districts</i>										
	<i>AG</i>	<i>R 1</i>	<i>P</i>	<i>H B</i>	<i>GB</i>	<i>R 3</i>	<i>RR</i>	<i>R E</i>	<i>LB</i>	<i>BP</i>	<i>OP</i>
Auto service				P							
Churches and schools			P								
Commercial Ag	P	P					P				P
Duplex multifamily											CUP
Farming	P	P		P	P	P	P	P			P
Greenhouses	CUP										CUP
Kennels	CUP				CUP		CUP				
Manufactured homes; with sewer						P					
Manufacturing					CUP						
Office uses				P	P				P	P	
Restaurants				P					CUP	CUP	
Retail uses				P	P				P	CUP	
Single-family residential	P	P				P	P	P			P
Stables	CUP										CUP
Notes to table:											
(1) P=Permitted use.											
(2) CUP=Conditional use permit.											
(3) The land use matrix outlines general allowed uses, subject to restrictions and provisions of the zoning code. Reference LEC 105.12 for specific allowable uses in each district.											

(Code 1997, § 325.05; Code 2007, § 150.254; Ord. No. 97-16, 9-16-1997; Ord. No. 08-005, 2-4-2008)

105.04.680 Shoreland Standards

- (a) *General provisions.* The following standards shall apply to all shorelands of the protected waters. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth in LEC 105.04.630 et seq., the more restrictive standards shall apply. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.
- (b) *Lot area; no sewer.*

<i>Zoning District</i>	<i>Natural Environment Lakes</i>		<i>Recreation Development Lakes</i>	
	<i>Riparian</i>	<i>Non-Riparian</i>	<i>Riparian</i>	<i>Non-Riparian</i>
RE (no sewer)	2.5 acres	2.5 acres	2.5 acres	2.5 acres
R1 (no sewer)	80,000 square feet	80,000 square feet	1.5 acres	1.5 acres
RR (no sewer)	10 acres	10 acres	10 acres	10 acres
AG (no sewer)	40 acres	40 acres	40 acres	40 acres
OP (no sewer)	0.5 acres	0.5 acres		
R3 (no sewer)	40,000 square feet	20,000 square feet	20,000 square feet	15,000 square feet
GB (no sewer)	3.5 acres	3.5 acres	3.5 acres	3.5 acres
BP (no sewer)	3 acres	3 acres	3 acres	3 acres

- (c) *Lot width.*

<i>Classification</i>	<i>Riparian Lot (No Sewer)</i>	<i>Riparian Lot (With Sewer)</i>	<i>Non-Riparian Lot (Without Sewer)</i>	<i>Non-Riparian Lot (With Sewer)</i>

Natural Environment	200 feet	200 feet	200 feet	NA
Recreational Development	150 feet	150 feet	150 feet	NA
Tributary Streams	100 feet	100 feet	NA	NA

(d) *Placement, design, and height of structures.*

(1) *Placement.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure 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. Structures shall be located as follows:

- a. *Structure and on-site sewage system setbacks.* Structure and on-site sewage system setbacks (in feet) from ordinary high water level.

<i>Setbacks From OHW</i>		
<i>Classification</i>	<i>Structures</i>	<i>Sewage Treatment System</i>
Natural environment	150 feet	150 feet
Recreational development	100 feet	75 feet
Tributary	100 feet	75 feet

- b. *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the water body.

<i>Setback From</i>	<i>Setback (In Feet)</i>
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highways	Per underlying zoning district regulations and exceptions
Right-of-way line of town road, public	Per underlying zoning

street, or other roads or streets not classified	district regulations and exceptions
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- c. *Bluff impact zone.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- d. *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- e. *Steep slopes.* The city shall 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 water, assuming summer, leaf-on vegetation.
- f. *Proximity to roads and highways.* Per underlying zoning district regulations and exceptions.
- g. *Use without water-oriented needs.* Use without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public water frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(2) *Design criteria for structures.*

- a. *High water elevations.* Structures must be placed in accordance with any floodplain regulations applicable to the site. All principal structures shall have their lowest floor at a level at least three feet above the highest known water level or the ordinary high water level, whichever is higher.
- b. *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure setback in subsection (d) of this section if this water-oriented accessory structure complies with the following provisions:

1. The structure or facility must not exceed 13 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.
 2. The setback of the structure or facility landward from the ordinary high water level must be at least ten feet on a recreational development lake and 50 feet on a natural environment lake.
 3. 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.
 4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.
 5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
 6. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.
- c. *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:
1. Stairways and lifts must not exceed four feet in width. Wider stairways may be used for public open space recreational properties.
 2. Landings for stairways and lifts must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for public open space recreational properties.
 3. Canopies or roofs are not allowed on stairways, lifts, or landings.
 4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner

that ensures control of soil erosion.

5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
6. Facilities 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 of subsections (d) (2)c.1 to 5 of this section are satisfied.

- (3) *Height of structures.* All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 35 feet in height.

(e) *Shoreland alterations.*

- (1) *Generally.* 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. Best management practices are recommended to guide shoreland alteration activities.
- (2) *Vegetation alterations.* Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by subsection (f) of this section are exempt from the vegetation alteration standards that follow. Removal or alteration of vegetation, except for agricultural uses as regulated in subsection (h) of this section is allowed, subject to the following standards.
 - a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
 - 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; and
3. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(3) *Topographic alterations; grading and filling.*

- a. 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. The grading and filling standards in LEC 105.04.630 et seq. must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
- b. Public roads and parking areas are regulated by subsection (f) of this section.
- c. Notwithstanding subsections (e)(3)a and b of this section, a grading and filling permit will be required for:
 1. The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones; and
 2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- d. The following considerations and conditions in addition to LEC 105.04.500 et seq. must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals.
 1. Grading and 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. (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.)
 - 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; and
 - vi. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
2. 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.
 3. 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 grading is complete.
 4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
 5. 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.
 6. Fill or excavated material must not be placed in a manner that creates an unstable slope.
 7. 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.
 8. Fill or excavated material must not be placed in bluff impact zones.
 9. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under M.S.A. § 103G.245, as it may be amended from time to time.
 10. 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.
 11. Placement of natural rock rip-rap, 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 rip-rap is within ten feet of the ordinary high water level, and the height of the rip-rap above the ordinary high water level does not exceed three feet.

- e. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must comply with all provisions of LEC 105.04.630 et seq. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

(f) *Placement and design of roads, driveways, and parking areas.*

- (1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view of 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.
- (2) 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 the council, at its discretion, determines that no alternative exists, the structures may be placed within these areas and must be designed to minimize adverse impacts.
- (3) Public and private (intended solely for the use of the property owner) 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 LEC 105.04.630 et seq. are met. For private facilities, the grading and filling provisions of subsection (e) of this section must be met.

(g) *Stormwater management.* The following general and specific standards shall apply, in addition to all applicable requirements found in LEC 105.04.740.

(1) *General standards.*

- a. Existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- b. 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 grading is complete and facilities or methods used to retain sediment on the site.

- c. 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 other than buried pipes and manmade materials and facilities.
- d. Use of fertilizers, pesticides, or animal wastes within shorelands must be done in a way as to minimize impact on the shore impact zone or public water by proper application.

(2) Specific standards.

- a. Impervious surface coverage of lots must not exceed 6,000 square feet or 15 percent of the lot area, whichever is larger.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a licensed civil engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(h) Special provisions for public/semi-public, agricultural, and forestry uses.

(1) Standards for public and semi-public uses.

- a. Surface water-oriented public or 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:
 - 1. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in LEC 105.04.630 et seq., the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
 - 2. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid

obstructions of navigation and to be the minimum size necessary to meet the need.

3. 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.
 4. Other 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.
- b. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(2) Agriculture use standards.

- a. 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 system) 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. Best management practices of the state DNR must be used. 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.
- b. Animal feedlots, as defined by the Minn. R. § 7020.0300, as amended from time to time, for compliance with permits, must meet the following standards:
 1. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins.
 2. Modifications or expansions to existing feedlots that are

located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(i) *Water supply and sewage treatment.*

- (1) *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. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the water well construction code of the state department of health.
- (2) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - a. Publicly-owned sewer systems must be used where available.
 - b. All private sewage treatment systems must meet or exceed the standards contained in LEC title 5 or the standards for individual sewage treatment systems contained in Minn. R. ch. 7080, a copy of which is adopted by reference and declared to be a part of LEC 105.04.630 et seq. In all cases, the more restrictive regulation shall apply.
 - c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in subsection (d)(1) of this section.
 - d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in this subsection (i) (2)d. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from onsite field investigations. Evaluation criteria:
 1. Depth to the highest known or calculated groundwater table or bedrock;
 2. Soil conditions, properties, and permeability;
 3. Slope; and
 4. The existence of lowlands, local surface depressions, and rock outcrops.

- e. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with LEC 105.04.700(b)(3).
- f. The discharge of non-treated raw sewage effluent into a lake, wetland, or stream is strictly prohibited and the condition will be required to be ceased immediately; and within a reasonable period (not to exceed 30 days) of notice and order to comply by the zoning administrator, the property owner shall install a system which complies with Minn. R. ch. 7080, as it may be amended from time to time, and LEC title 5, whichever is more restrictive.
- g. Gray water, meaning liquid waste from a dwelling produced by bathing, laundry, culinary operations, and floor drains associated with these sources, and specifically excluding toilet waste, must be treated in accordance with Minn. R. ch. 7080, as it may be amended from time to time. Discharge of gray water directly into a lake, wetland, or stream is prohibited and the condition shall cease immediately.
- h. Any discharge of chemically-treated water into a lake, wetland, or stream, such as, by way of an example only, the drainage of a swimming pool, must not be done without first obtaining all required permits from the state pollution control agency.

(j) *Conditional uses.*

- (1) Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in the zoning code.
- (2) The following additional evaluation criteria and conditions apply within shoreland areas:
 - a. *Evaluation criteria.* A thorough evaluation of the water body and topographic, vegetation, and soils conditions on the site must be made to ensure:
 - 1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - 2. The visibility of structures and other facilities as viewed from public waters is limited;
 - 3. The site is adequate for water supply and on-site sewage treatment; and
 - 4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the ability of public waters to safely accommodate these watercraft.

b. *Conditions attached to conditional use permits.* The council, upon consideration of the criteria listed above and the purposes of LEC 105.04.630 et seq., shall attach the conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of LEC 105.04.630 et seq. The conditions may include, but are not limited to, the following:

1. Increased setbacks from the ordinary high water level;
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
3. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Code 1997, § 325.06; Code 2007, § 150.255; Ord. No. 97-16, 9-16-1997; Ord. No. 08-005, 2-4-2008; Ord. No. 08-024, 4-20-2010; Ord. No. 2012-61, 9-4-2012; Ord. No. 2012-63, 10-2-2012)

105.04.690 Nonconformities

(a) All legally established nonconformities as of the date of the ordinance codified in LEC 105.04.630 et seq. may continue, but they will be managed according to applicable state statutes and other regulations of the city for the subject of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply to shoreland areas:

(b) (1) *Construction on nonconforming lots of record.*

- a. Lots of record in the office of the county recorder on the date of enactment of the ordinance codified in LEC 105.04.630 et seq. that do not meet the requirements of LEC 105.04.680(b) may be allowed as building sites without variances from lot size requirements, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of LEC 105.04.630 et seq. are met.
- b. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or

constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

- c. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of LEC 105.04.680(b), the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of LEC 105.04.680(b) as much as possible.

(2) Additions/expansions to nonconforming structures.

- a. *Additions/expansions.* All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of LEC 105.04.680. Any deviation from these requirements must be authorized by a variance pursuant to LEC 105.04.670(b)(2).
- b. *Decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - 1. The structure existed on the date the structure setbacks were established.
 - 2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
 - 3. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.
 - 4. The deck is constructed primarily of wood and is not roofed or screened.

(3) Nonconforming sewage treatment systems.

- a. A sewage treatment system not meeting the requirements of LEC 105.04.680(i) must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

- b. The council of the city has notified the DNR commissioner of its plan to identify nonconforming sewage treatment systems in shoreland areas. The city will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time, which will not exceed 180 days of notice and order to comply by the zoning administrator. Sewage systems installed according to all applicable local shoreland management standards adopted under M.S.A. § 103F.201, as it may be amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems including cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by Minn. R. ch. 7080, as it may be amended from time to time, for design of off-site sewage treatment systems, shall be considered nonconforming.

(Code 1997, § 325.07; Code 2007, § 150.256)

105.04.700 Subdivision/Platting Provisions

- (a) *Land suitability.* Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the city.
- (b) *Platting.* All subdivisions shall be in accordance with the city's platting regulations and requirements.
- (c) *Consistency with other controls.* Subdivisions must conform to all regulations for the city. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly-owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with LEC 105.04.680(d) and (i) can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of LEC 105.04.680(b), including at least a minimum contiguous vegetative area, that is free of limiting factors sufficient for the construction of two standard sewage treatment systems. Lots that would require use of holding tanks must not be approved.

(d) *Information requirements.* Sufficient information must be submitted by the applicant for the city to make a determination of land suitability. The information may include the following at the discretion of the city planner or city engineer:

- (1) Topographic contours at two-foot intervals or less;
- (2) The surface water features required in M.S.A. § 505.03, as it may be amended from time to time, to be shown on plats obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- (3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- (4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- (5) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
- (6) A line or contour representing the ordinary high water level, the "toe" and "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(e) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(f) *Controlled access or recreational lots.* Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in LEC 105.04.680(b) and (c).

(Code 1997, § 325.08; Code 2007, § 150.257)

105.04-XIV STORMWATER AND EROSION AND SEDIMENT CONTROL

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105.04.710 Statutory Authorization

This subchapter is adopted pursuant to the authorization and policies contained in M.S.A. chs. 103B and 462 and M.S.A. §§ 103F.401 and 103F.441 and Minn. R. chs. 7050, 7090, and 8410. This subchapter is intended to meet the current construction site erosion and sediment control and post-construction stormwater management regulatory requirements for construction activity and small construction activity (NPDES permit) as defined in 40 CFR pt. 122.26(b)(14)(x) and (b)(15), respectively.

(Code 2007, § 150.270; Ord. No. 08-016, 6-16-2009)

105.04.720 Findings

The city finds that uncontrolled stormwater runoff and construction site erosion from land development and land disturbing activity can have significant adverse impacts upon local and regional water resources diminishing the quality of public health, safety, public and private property, and natural resources of the city. Specifically, uncontrolled construction site erosion and stormwater runoff can:

- (a) Threaten public health, safety, property, and general welfare by increasing runoff volume peak flood flows, and overburdening storm sewers, drainageways, and other storm drainage systems;
- (b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing pollutant loadings of total sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens, and other urban pollutants;
- (c) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows, and increasing stream temperatures;
- (d) Undermine floodplain management efforts by increasing the incidence and levels of flooding;
- (e) Alter wetland communities by changing wetland hydrology and increasing pollutant loading; and
- (f) Generate airborne particulate concentrations that are health threatening or may cause other damage to property or the environment.

(Code 2007, § 150.271; Ord. No. 08-016, 6-16-2009)

105.04.730 Purpose

- (a) The general purpose of this subchapter is to set forth regulatory requirements for land development and land disturbing activities aimed at minimizing threats to public health, safety, public and private property and natural resources within the city from construction site erosion and post-construction stormwater runoff.
- (b) Specific purposes are to establish performance standards that will:
 - (1) Protect life and property from dangers associated with flooding;
 - (2) Protect public and private property and the natural resources from damage resulting from runoff and construction site erosion;
 - (3) Protect functional values of all types of natural water bodies (e.g., rivers, streams, wetlands, lakes, seasonal ponds);
 - (4) Sustain or enhance biodiversity (native plant and animal habitat) and support riparian ecosystems;
 - (5) Protect water quality from nutrients, heavy metals, bacteria, pathogens, debris, thermal stress, and other urban pollutants;
 - (6) Promote infiltration and groundwater recharge;
 - (7) Regulate stormwater runoff volumes and peak rates for land development and land disturbing activities;
 - (8) Promote regional stormwater management by watershed; and
 - (9) Provide a single, consistent set of performance standards that apply to all land development and land disturbing activities.

(Code 2007, § 150.272; Ord. No. 08-016, 6-16-2009)

105.04.740 Applicability

- (a) *Stormwater management.*
 - (1) A stormwater management (SWM) plan shall be required for all proposed land development activity, unless otherwise exempted in this subchapter, which meets any or all of the following:
 - a. Any land development activity that increases and/or replaces impervious surface with a surface area exceeding one acre, including smaller individual sites that are part of a common plan of development that may be constructed at different times;

- b. A subdivision consisting of three or more lots; and/or
- c. Any land development activity, regardless of size, that the city determines would otherwise cause an adverse impact to an environmentally sensitive area.

(2) *Exemptions.* The following land development activities will be exempt from the stormwater management requirements of this subchapter:

- a. Mining activities regulated by LEC 9.04;
- b. Reconstruction of existing public trails and construction of new public trails that are not a part of a proposed land development activity as defined in subsection (a)(1) of this section;
- c. Reclamation and maintenance of existing public streets.

(b) *Erosion and sediment control.*

(1) An erosion and sediment control (ESC) plan shall be required for all proposed land disturbing activity, unless otherwise exempted in this subchapter, which meets any or all of the following:

- a. Meets the permit requirements of an excavation and grading permit per LEC 105.08.060;
- b. New dwelling permits;
- c. A subdivision of any size;
- d. Involves the laying, repairing, replacing, or enlarging of an underground utility, pipe or other facility, or the disturbance of road ditch, grass swale or other open channel for a distance of 500 feet or more; and/or
- e. Is a land disturbing activity, regardless of size, that the city determines would otherwise cause an adverse impact to an environmentally sensitive area, or may violate any erosion and sediment control standard set forth in this subchapter.

(2) *Exemptions.* The following land disturbing activities will be exempt from the erosion and sediment control plan requirements of this subchapter:

- a. Cemetery graves;
- b. Mining activities regulated by LEC 9.04;
- c. Tilling, planting, or harvesting of agricultural, horticultural or silvicultural (forestry) crops;
- d. Emergency work necessary to protect life, limb, or property; and

- e. City, county, state, or federal agency project whose plans and specifications meet the requirements of this subchapter and are reviewed and approved by the city under a separate process.

(Code 2007, § 150.273; Ord. No. 08-016, 6-16-2009; Ord. No. 08-043, 5-3-2011)

105.04.750 Incorporation By Reference

- (a) The following are incorporated into this subchapter by reference:
 - (1) The local surface water management plan; and
 - (2) The city engineering design standards.
- (b) All stormwater mitigation and management technologies shall be consistent with the most current versions of the city engineering design standards.

(Code 2007, § 150.275; Ord. No. 08-016, 6-16-2009)

105.04.760 Plan Review Procedure

- (a) *Plan approval required.* The applicant shall not commence any construction activity subject to this subchapter until plan approval has been authorized by the city and all fees, escrows and securities have been paid and filed with the city.
- (b) *Plan submittal.* The applicant must submit the required plans and documentation to fully address all provisions of this subchapter and demonstrating conformance to the current versions of the city engineering design standards.
- (c) *Plan review and authorization.* The city shall review the plan submittal for completeness and compliance with standards. If the city determines that the plan does not meet the requirements of this subchapter, the city shall notify the applicant that the submittal is incomplete and request changes or additional information. The plans must be revised to correct the deficiencies and resubmitted for approval before the land disturbance activity begins. If the city determines that the stormwater management plan and/or erosion and sediment control plan meet the requirements of this subchapter, the city shall issue a plan approval valid for a specified period of time that authorizes the land activity contingent on the implementation and completion of this plan. The city may approve the plans subject to compliance to conditions reasonable and necessary to ensure that the requirements in this subchapter are met.
- (d) *Construction initiation and first compliance inspection.* No work shall begin on a site until a preconstruction meeting has been conducted (if required by the city as part of the plan approval). Once work is authorized to begin, the applicant or agent shall install all erosion and sediment control devices as required by the

approved plan and shall inform the city that they are in place. The city will complete an initial site inspection to determine compliance with the plan and to authorize the land disturbance activity to begin.

(e) *Adherence to the approved plans and plan modifications.* Once approved by the city, the stormwater management plan and/or erosion and sediment control plan must be followed throughout the duration of the land disturbance or land development activity. The approved plans shall not be modified or altered without receiving written authorization from the city. Plan amendments will be required by the city whenever:

- (1) A change in design, construction, operation, maintenance, weather, or seasonal conditions that has a significant effect on the discharge or pollutants to surface waters or underground waters;
- (2) Inspections or investigations indicate the plans are not effective in eliminating or significantly minimizing the discharge or pollutants to surface waters or underground waters or that the discharges are causing water quality degradation;
- (3) The plan is not achieving the general objectives of minimizing pollutants in stormwater discharges associated with construction activity; or
- (4) The plan is found to not be consistent with the terms and conditions of this subchapter.

(f) *Variance requests.* The city may grant a variance on a case-by-case basis. The content of a variance is specified in the zoning code.

(Code 2007, § 150.276; Ord. No. 08-016, 6-16-2009)

105.04.770 Performance And Design Standards

(a) *Stormwater management plan.*

- (1) All stormwater management plans shall meet the minimum requirements of the NPDES construction stormwater permit (Permit No. MNR100001), the minimum requirements of the watershed having jurisdiction over the site, the city engineering design standards, and other regulatory agencies. A stormwater management plan must be submitted to the city for review and approval concurrently with the submittal to the watershed having jurisdiction over the site.
- (2) Stormwater criteria. Stormwater management plans will be assessed for stormwater rate control and stormwater quality management to reduce the impacts of the land activity.

a. *Rate control requirements.* The stormwater management plan

shall demonstrate that all rate control requirements of the NPDES construction stormwater permit (Permit No. MNR100001) and the watershed having jurisdiction over the site are met. Stormwater best management practices to meet this requirement shall be designed and constructed in accordance with the most current version of the city engineering design standards. The city engineer retains the authority to require the above conditions to apply to the rate of stormwater runoff discharging at any point leaving the site.

b. *Water quality control requirements.* The stormwater management plan shall demonstrate that all water quality control requirements of the NPDES construction stormwater permit (Permit No. MNR100001) and the watershed having jurisdiction over the site are met. Stormwater best management practices to meet this requirement shall be designed and constructed in accordance with the most current version of the city engineering design standards. The city engineer retains the authority to require the above conditions to apply to the rate of stormwater runoff discharging at any point leaving the site.

c. *Volume control requirements.*

1. The volume of stormwater runoff discharging from a proposed site shall not be greater than the volume of stormwater runoff discharging prior to the proposed site alteration for the two-, ten-, and 100-year storm events. Stormwater best management practices to meet this requirement shall be designed and constructed in accordance with the most current version of the city engineering design standards. The city engineer retains the authority to require the above conditions to apply to the volume of stormwater runoff discharging at any point leaving the site.
2. The analyses for the volume of stormwater runoff shall be calculated using the Soil Conservation Service Type II time distribution for the two-, ten-, and 100-year 24-hour storm events. The volume of stormwater runoff prior to the proposed development shall be calculated at the pre-settlement condition as defined in the State Stormwater Manual for a meadow condition based on the applicable hydrologic soil group for the development (see Table 1).

Table 1: Curve Number for Pre-Settlement Condition

<i>Hydrologic Soil Group</i>	<i>Runoff Curve Number</i>
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A	30
B	58
C	71
D	78

d. *Drainage-related easements.* Drainage easements must be acquired on behalf of the city and legally recorded at the county for all permanent stormwater facilities to allow for proper access and maintenance activities. At a minimum, drainage easements shall meet the following criteria:

1. Easements are required for all ponding areas to the basin's 100-year storm high water level elevation.
2. Easements are required for all outlet swales and ditches, and for overland overflow routes located downstream of basins located on-site.
3. Easements are required for all storm sewer pipes, throughout its entire length. For storm sewer pipes installed less than ten feet in depth within private property, the easement shall be a minimum of 20 feet wide. For storm sewer pipes installed greater than ten feet in depth within private property, the easement shall be a minimum of 30 feet wide, or as determined by the city engineer.
4. Easements are required for maintenance vehicle access to all stormwater facilities where not directly available on a public road.
5. If a stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

(b) *Erosion and sediment control plan.*

- (1) All erosion and sediment control plans shall meet or exceed the most stringent of the performance and design standards of this subchapter and shall be consistent with National Pollution Discharge Elimination Permit (NPDES) requirements, the city engineering design standards, and the

filing or approval requirements of relevant watershed districts (Brown's Creek, South Washington, and/or Valley Branch), the county, state department of natural resources, state pollution control agency, and other regulatory agencies.

(2) Erosion and sediment control criteria.

a. Erosion and sediment control plans will be assessed in the following ways:

1. Pollution prevention by minimizing disturbance of natural soil cover and vegetation, and minimizing, in area and duration, exposed soil and unstable soil conditions;
2. Using sediment barriers to protect soil stockpiles, receiving water bodies, wetlands, storm sewer inlets, and adjacent properties from sediment deposition;
3. Minimize off-site sediment transport on trucks and equipment;
4. Minimize work in and adjacent to water bodies and wetlands;
5. Maintain stable slopes;
6. Avoid steep slopes and the need for high cuts and fills;
7. Minimize disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing;
8. Minimize the compaction of site soils;
9. Using and maintaining temporary and permanent soil stabilization;
10. Controlling site waste through the use of a designated concrete washout area; and
11. Managing site waste of all unused building materials by properly disposed of wastes offsite and not allowing site wastes to be carried by runoff into a receiving channel or storm sewer system.

b. All sites must be maintained to prevent unreasonable erosion and sedimentation.

c. Erosion control measures must be in place before any land disturbance activity begins, and measures must remain in place and functional until the site is permanently stabilized. Adequate and timely temporary and permanent stabilization measures must

be taken.

- d. Streets shall be cleaned and swept within 24 hours whenever tracking of sediment occurs and before sites are left idle for weekends and holidays.
- e. All temporary erosion and sediment control measures, such as silt fence and inlet protection devices, shall be removed within 30 days after permanent stabilization is attained. All storm sewer systems and drainageways must be flushed and cleaned of sediment accumulation and all accumulated sediments must be removed and properly disposed of.

(Code 2007, § 150.277; Ord. No. 08-016, 6-16-2009; Ord. No. 08-043, 5-3-2011; Ord. No. 08-090, 10-15-2013)

105.04.780 Stormwater Facility Maintenance

(a) Maintenance of publicly-owned facilities.

- (1) The city shall perform maintenance of publicly-owned stormwater facilities within the city as provided for in the local surface water management plan and the city stormwater pollution prevention plan.
- (2) A final inspection shall be required before the city accepts ownership of the stormwater facilities. Before work under the plan is deemed complete, the applicant must submit as-built record drawings and a maintenance plan demonstrating at the time of final stabilization that the stormwater facilities conform to design specifications.

(b) Maintenance of privately-owned facilities. A maintenance agreement in a form acceptable to the city must be executed and recorded with the county for all permanent stormwater facilities to be located on private property. The agreement shall provide a maintenance plan defining the party responsible to conduct maintenance, the type of maintenance and the maintenance intervals.

(Code 2007, § 150.278; Ord. No. 08-016, 6-16-2009)

105.04.790 Monitoring And Inspections

- (a) Monitoring and inspection requirements for site construction.* The applicant is responsible for inspections and record-keeping in accordance with the approved plan requirements and NPDES permit requirements. The applicant must maintain a copy of the approved stormwater management and erosion and sediment control plans at the site at all times including all daily records required

by the plans. The applicant must monitor site conditions and make any and all necessary repairs and corrections to the erosion control measures to maintain site compliance. The applicant has a duty to report to the city any illegal off-site discharges. Failure to make a report within 24 hours of the discovery of the off-site discharge shall constitute a violation of this subchapter.

(b) *City inspections.*

- (1) The city shall conduct inspections on a regular basis to ensure that both stormwater and erosion and sediment control measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. The city shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.
- (2) Right of entry. The issuance of an approved plan under this subchapter constitutes a right of entry for the city or its contractor to enter upon the construction site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys, including the right to bring such equipment to perform such surveys and investigations. The city inspector may copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this site, and may inspect the stormwater pollution control and erosion control measures including any sampling and monitoring pertaining to the compliance requirements for the site.
- (3) Construction shall not occur on the site at any time when the city has identified conditions of noncompliance or a stop work order has been issued.
- (4) Construction activities undertaken by an applicant prior to resolution of all discrepancies specified by the city shall constitute a violation of this subchapter.
- (5) Whenever there is insufficient evidence of compliance with any of the provisions of this subchapter or evidence that any material or construction does not conform to the requirements of the approved plans, the city may require tests as proof of compliance to be made at no expense to the city. Test methods shall be as specified by recognized test standards, or in the absence thereof, by the city.

(Code 2007, § 150.279; Ord. No. 08-016, 6-16-2009)

105.04.800 Enforcement

- (a) *Enforcement.* The city shall be responsible for enforcing this subchapter.
- (b) *Penalties.* Any person, firm or corporation failing to comply with or violating any

of the provisions of this subchapter, shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this subchapter is committed, continued or permitted, shall constitute a separate offense. All land use and building permits shall be suspended until the applicant has corrected any and all violations.

(c) *Enforcement by stop work order.*

- (1) Whenever a city inspector finds any violation of this subchapter, the inspector will fill out an inspection form noting the observed violations and a stop work order will be issued.
- (2) The stop work order shall be in writing and shall be given to the applicant or the applicant's agent.
- (3) Upon issuance of the stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order.
- (4) The applicant must immediately begin corrective actions to remedy the violations. Once the violations have been corrected the applicant must contact the city to schedule a re-inspection.
- (5) The applicant may commence further activity at the site after a re-inspection is provided by the city and the city determines that the site is in compliance, and all fees associated with the violation are paid in full.
- (6) If the applicant fails to correct the violations in a timely manner, the city may correct the cited violations and draw down the escrow to cover the costs.

(d) *Enforcement actions to ensure compliance.* The city can take the additional following actions in the event of a failure by applicant to meet the terms of this subchapter:

- (1) Withhold inspections or issuance of certificates or approvals.
- (2) Revoke any permit issued by the city to the applicant.
- (3) Conduct remedial or corrective action on the development site or adjacent site affected by the failure.
- (4) Recover from applicant all costs associated with correcting the failure or remediating damage from the failure, by drawing down any escrow funds. If the costs exceed the escrow funds, the city may invoice the applicant with payment due immediately. All payments by applicant must be made prior to resuming work on the site.
- (5) Bring other actions against the applicant to recover costs of remediation or meeting the terms of this subchapter.

(Code 2007, § 150.280; Ord. No. 08-016, 6-16-2009)

105.04.810 Financial Securities

- (a) *Financial securities.* The applicant shall provide security for the performance of the work in the amount established in the city's fee schedule, and in a form acceptable to the city.
- (b) *Action against the financial security.* The city may access the financial security to conduct work necessary to correct any violations in a timely manner and in accordance with the provisions of this subchapter. The city shall use the security to finance remedial work undertaken by the city, or a private contractor under contract to the city including a fee to the city for processing equal to ten percent of the any contractor invoice for materials and services, to reimburse the city for all costs incurred in the process of remedial work, including, but not limited to, staff time, engineering fees and attorney's fees.
- (c) *Maintenance of financial security.* If at any time the financial security is drawn upon, the applicant will be required to submit additional security to restore the security to the full amount as originally established. Restoring the full security is a requirement prior to resuming work on the site.

(Code 2007, § 150.281; Ord. No. 08-016, 6-16-2009)

105.04.820 Stormwater Utility

See LEC 5.16.

(Code 2007, § 150.282; Ord. No. 08-016, 6-16-2009)

105.04.830 Lawn Fertilizer Regulations

No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative materials on impervious surfaces, or within stormwater drainage systems, natural drainageways, or within wetland buffer areas.

(Code 2007, § 150.283; Ord. No. 08-016, 6-16-2009)

105.04.840 Other Controls

- (a) In the event of any conflict between the provisions of this subchapter and the provisions of any other city ordinance adopted by the city council, the more restrictive standard prevails.
- (b) The city reserves the right to impose supplemental or additional conditions or requirements to prevent erosion or undesired runoff.

(Code 2007, § 150.284; Ord. No. 08-016, 6-16-2009)

105.04-XV ILLICIT DISCHARGE AND CONNECTION

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105.04.850 Purpose

The general purpose of this subchapter is to provide for the health, safety, and general welfare of the public through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the MS4 permit issued to the city by the Minnesota Pollution Control Agency (MPCA) under the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this subchapter are:

- (a) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user;
- (b) To prohibit illicit connections and discharges to the MS4;
- (c) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this subchapter.

(Code 2007, § 150.300; Ord. No. 2012-59, 6-5-2012)

105.04.860 Applicability

This subchapter shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by LEC 105.04.910(a)(1) through (4).

(Code 2007, § 150.301; Ord. No. 2012-59, 6-5-2012)

105.04.870 Definitions

For the purposes of this subchapter, all terms, phrases, words, and their derivatives shall have the meanings as stated in LEC 1.08.

(Code 2007, § 150.302; Ord. No. 2012-59, 6-5-2012)

105.04.880 Responsibility For Administration

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

(Code 2007, § 150.303; Ord. No. 2012-59, 6-5-2012)

105.04.890 Compatibility With Other Regulations

This subchapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this subchapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this subchapter imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(Code 2007, § 150.304; Ord. No. 2012-59, 6-5-2012)

105.04.900 Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this subchapter are minimum standards, therefore, this subchapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(Code 2007, § 150.305; Ord. No. 2012-59, 6-5-2012)

105.04.910 Discharge Prohibitions

- (a) *Prohibition of illegal discharges.* No person shall throw, drain, or otherwise discharge, cause, or allow others to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this subchapter: water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, 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 car washing, flows from riparian habitats and wetlands, street wash water, dechlorinated swimming pool water, and any other water source not containing a pollutant.
 - a. For swimming pool discharges, water shall sit seven days without the addition of chlorine to allow for chlorine to evaporate before discharge.
 - b. Discharge of swimming pools, crawl spaces, sump pumps, footing drains and other sources that may be determined to contain sediment or other forms or pollutants may not be discharged directly to a gutter or storm sewer. This discharge must be allowed to flow over a vegetated area to allow filtering of pollutants, evaporation of chemicals and infiltration of water consistent with the stormwater requirements of the city.
- (2) Discharges or flow from firefighting, and other discharges specified in writing by the city as being necessary to protect public health and safety.
- (3) Discharges associated with dye testing; however, this activity requires a written notification to the city prior to the time of the test.
- (4) 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 MPCA, 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) Prohibition of illicit connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this subchapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

- (4) Improper connections in violation of this subchapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the city.
 - (5) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the city requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the city.
- (c) *Additional discharge prohibitions.* Any owner or occupant of property within the city shall comply with the following requirements:
- (1) Subsurface sewage treatment systems shall be maintained to prevent failure.
 - (2) Recreational vehicle sewage shall be disposed of to a proper sanitary waste facility.
 - (3) Mobile washing companies (carpet cleaning, mobile vehicle washing, and the like) shall dispose of wastewater to the sanitary sewer.
 - (4) All motor vehicle parking lots and private streets shall be swept, at a minimum, once a year in the spring to remove debris. Such debris shall be collected and properly disposed of.
 - (5) Fuel, chemical residue, household hazardous waste or other types of potentially harmful material shall be disposed of properly.
 - (6) Objects, such as motor vehicle parts, containing grease, oil or other hazardous substances, and unsealed receptacles containing hazardous materials, shall not be stored in areas susceptible to runoff.
 - (7) Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills or discharges.

(Code 2007, § 150.306; Ord. No. 2012-59, 6-5-2012)

105.04.920 Watercourse Protection

Every person owning property through which a watercourse passes, or such person's

lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, yard waste, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Code 2007, § 150.307; Ord. No. 2012-59, 6-5-2012)

105.04.930 Industrial Or Construction Activity Discharges

(a) Submission of notice of intent (NOI) to the city.

- (1) Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit is required in a form acceptable to the city prior to the allowing of discharges to the MS4.
 - a. Industrial activity includes activities subject to NPDES industrial stormwater permits as defined in 40 CFR 122.26(b)(14).
 - b. Construction activity includes activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.
- (2) The operator of a facility, including construction sites, required to have an NPDES permit to discharge stormwater associated with industrial activity shall submit a copy of the NOI to the city at the same time the operator submits the original NOI to the EPA as applicable.
- (3) The copy of the NOI must be delivered to the city either in person or by mailing it to:

Notice of Intent to Discharge Stormwater
City of Lake Elmo
3800 Laverne Avenue S.
Lake Elmo, MN 55042

- (b) A person commits an offense if the person operates a facility that is discharging stormwater associated with industrial activity without having submitted a copy of the NOI to do so to the city.

(Code 2007, § 150.308; Ord. No. 2012-59, 6-5-2012)

105.04.940 Requirement To Prevent, Control, And Reduce Stormwater Pollutants

By The Use Of Best Management Practices

The city will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premises that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this subchapter. These BMPs shall be part of a stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

(Code 2007, § 150.309; Ord. No. 2012-59, 6-5-2012)

105.04.950 Notification Of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the city in person or by phone no later than the next business day. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Failure to provide notification of a release, as provided above, is a violation of this subchapter.

(Code 2007, § 150.310; Ord. No. 2012-59, 6-5-2012)

105.04.960 Right Of Entry

The city shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as may be necessary to determine compliance with this subchapter, including the right to set up, or require the facilities owner to set up devices necessary to conduct monitoring and/or sampling of the facilities' stormwater discharge.

(Code 2007, § 150.311; Ord. No. 2012-59, 6-5-2012)

105.04.970 Enforcement

- (a) *Enforcement.* The city shall be responsible for enforcing this subchapter.
- (b) *Penalties.* Any person, firm or corporation failing to comply with or violating any of the provisions of this subchapter shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this subchapter is committed, continued or permitted, shall constitute a separate offense. All land use and building permits shall be suspended until the applicant has corrected any and all violations.
- (c) *Emergency cease and desist orders.* When the city finds that any person has violated, or continues to violate, any provision of this subchapter, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation has caused or contributed to an actual or threatened discharge to the MS4 or waters of the state which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the city may issue an order to the violator directing it immediately to cease and desist all such violations.
- (d) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this subchapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. Such suspension may also be imposed if it is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger.
- (e) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense; and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Code 2007, § 150.312; Ord. No. 2012-59, 6-5-2012)

105.04.980 Authority

This subchapter shall become effective upon the passage and publication of the ordinance from which it is derived in accordance with the law.

(Code 2007, § 150.314; Ord. No. 2012-59, 6-5-2012)

105.04-XVI INTERNATIONAL PROPERTY MAINTENANCE CODE

[105.04.990 Adoption By Reference](#)

[105.04.1000 Amendments](#)

105.04.990 Adoption By Reference

The city does hereby adopt, by reference, the year 2012 edition of the International Property Maintenance Code, as hereinafter amended pursuant to this subchapter, as the property maintenance code of the city.

(Code 2007, § 150.325; Ord. No. 08-075, 5-7-2013; Ord. No. 08-181, § 1(150.325), 7-18-2017)

105.04.1000 Amendments

- (a) The year 2012 edition of the International Property Maintenance Code adopted by this subchapter is hereby modified by deleting the following sections: 103.2, 103.3.
- (b) The year 2012 edition of the International Property Maintenance Code adopted by this subchapter is hereby amended by modifying the following denominated sections thereof to read as hereinafter set forth:

- (1) Chapter 1.

- 101.1 For the purpose of this article, these regulations shall be known as the property maintenance code of the city, hereinafter referred to as this Code.

- 102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the state building code. Nothing in this Code shall be construed to cancel, modify or set aside any of the provisions of the city zoning code.

- 103.1 Enforcement. Responsibility for enforcement of this Code shall be vested in the city's building official's office. The city's building official is hereby appointed as the code official for the purposes of this Code and employees acting under his discretion and control shall be deemed to be deputy code officials.

- 103.5 Fees. The fees for activities and services performed by the department carrying out its responsibilities under this Code shall be determined by the city council.

(Code 2007, § 150.326; Ord. No. 08-075, 5-7-2013; Ord. No. 08-181, § 1(150.36), 7-18-2017)

CHAPTER 105.08 BUILDING REGULATIONS

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105.08-I BUILDING CODE

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105.08.010 State Building Code Adopted

The state building code, as adopted by the commissioner of labor and industry 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 labor and industry, through its building codes and standards unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section. The state building code is hereby incorporated in this section as if fully set out herein and shall be known as the "Lake Elmo Building Code."

(Code 2007, § 151.001; Ord. No. 97-121, 7-15-2003; Ord. No. 97-157, 5-17-2005; Ord. No. 97-171, 5-26-2006; Ord. No. 08-147, 7-19-2016)

105.08.020 Application, Administration, And Enforcement

- (a) The application, administration, and enforcement of the building code shall be in accordance with the state building code. The building code shall be enforced within the extraterritorial limits permitted by M.S.A. § 326B.121, subd. 2(d).
- (b) The code enforcement agency of the city is called the "Lake Elmo Building Department." The building code shall be enforced by the city building official, as the building official is designated by the city to administer the code in accordance with M.S.A. § 326B.133, subd. 1.

(Code 2007, § 151.002; Ord. No. 97-121, 7-15-2003; Ord. No. 08-048, 7-19-2011; Ord. No. 08-093, 11-19-2013; Ord. No. 08-147, 7-19-2016)

105.08.030 Permits, Inspections And Fees

- (a) The issuance of permits, conducting of inspections and the collection of fees shall be as authorized in Minn. R. ch. 1300. Permit fees shall be assessed for work governed by this section in accordance with the city's fee schedule. In addition, a surcharge fee shall be collected on all permits issued for work

governed by this section in accordance with M.S.A. § 326B.148, subd. 1.

- (b) No permit, as required by the building code, shall be issued until the fees prescribed have been paid, nor shall an amendment to a permit be approved until the additional fees, if any, due to an increase in the estimated cost of the building or structure have been paid.
- (c) Plan review fees shall be 65 percent of the building permit fee. Investigation fees for work started without a permit shall be equal to the permit fee.
- (d) Plan review fees for similar plans shall be 25 percent of the normal building permit fee.
- (e) The plan checking fee shall be paid by the applicant to the city.
- (f) Permits shall be required for moving structures within, out, or through the city. Structure moving permit fees shall be as established by the city's fee schedule.
- (g) An escrow administration fee in an amount established in the city's fee schedule shall be paid before a permit is issued for all permits requiring escrow in accordance with LEC 105.08.100.

(Code 2007, § 151.003; Ord. No. 97-121, 7-15-2003; Ord. No. 08-147, 7-19-2016)

**105.08-II PERMITS, FEES, AND BONDS; EXCAVATING AND GRADING;
CULVERTS; MOVING BUILDINGS INTO CITY**

[105.08.040 Generally](#)

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105.08.040 Generally

- (a) *Permits required.* No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure in the city or cause these actions to be done without first obtaining a separate building permit for each building or structure as required by the state building code as adopted by this chapter.

- (b) *Fees established.*

- (1) Fees shall be as provided by city council ordinance, as amended from

time to time, and shall be attached as Appendix A of the zoning code.

- (2)
 - a. The building official shall utilize the chart of estimated construction costs as annually provided by the state department of labor and industry, building codes and standards unit, to compute building valuations for the purposes of establishing the permit fees of the city.
 - b. Specific fees are set forth from time to time by resolution of the city council.
- (c) *Double fee.* If any construction is undertaken in the absence of a permit required by this Code to be issued as a prerequisite to building construction, the permit fee shall be double the stated amount.
- (d) *Building demolition fees.* All building or structures prepared for demolition within the city require a demolition permit.

(Code 1997, § 505.01; Code 2007, § 151.015; Ord. 97-43, 5-4-1999; Ord. No. 97-202, 12-4-2007; Ord. No. 08-147, 7-19-2016)

105.08.050 Culverts In Developments With Rural Section

No building permit shall be issued for any parcel served by a roadway with a rural ditch section until the applicant installs or is served by a driveway culvert of a type and in a manner to avoid obstruction of water flow, as determined by the city engineer, or until the city engineer determines that no culvert is necessary.

(Code 1997, § 505.02; Code 2007, § 151.016)

105.08.060 Excavation And Grading Permits

- (a) *Permit required.* No person shall undertake, authorize, or permit any of the following actions without first having obtained a grading and excavating permit from the city:
 - (1) Any excavating, grading, filling, or other changes in the earth's topography resulting in the movement of more than 50 cubic yards of material, except in any designated wetlands, floodplain, or shoreland district;
 - (2) Any excavating, grading, filling, or other changes in the earth's topography in any designated wetlands, floodplain, or shoreland district for construction projects, development, or subdivisions;
 - (3) Any excavation of gravel or other materials for the purpose of creating wetlands, berming, other natural features, and landscape amenities; or

- (4) Any changing of a natural drainageway or drainage pattern that results in increasing or intensifying the flow of surface water upon adjacent property.
- (b) *Exceptions.* Notwithstanding the above, no grading or excavation permit shall be required for the following activities except as required by state building code:
 - (1) Earthwork undertaken in accordance with grading plans approved in conjunction with a site and building plan review or plat approval;
 - (2) Earthwork which will result in moving less than 50 cubic yards of material, provided the work does not take place in any designated wetlands, floodplain, or shoreland district and does not affect local drainage patterns; or
 - (3) Public improvement projects.
- (c) *Plan approval required.* No grading or excavation permit shall be issued for site grading or excavation without approved plans for site development and adequate provision for site protection from wind or water erosion. See LEC 105.04.750 for stormwater and erosion and sediment control requirements.
- (d) *Changes to earth's topography prohibited without permit.* No person shall undertake, authorize, or permit any excavating, grading, filling, or other change in the earth's topography which violates or is not in compliance with a grading or excavating permit issued by the city, including the approved plans and all terms and conditions of the permit.
- (e) *Public hearing.* All grading and excavating applications, for the purpose of creating wetlands, berming, landscape amenities, and other natural features that result in the moving of more than 400 cubic yards of material per acre of site area shall require a public hearing. To the extent possible, grading permit review will be combined with other planning permits reviews.
- (f) *Review of grading permits.* Applications for a grading or excavation permit that require either an administrative review or approval by the city council following a public hearing, shall be made to the city planner on forms provided by the city. The application shall be accompanied by the fee set forth from time to time by resolution of the city council.
- (g) *Submission requirements.* All grading and excavation permit applications shall be accompanied by the following information:
 - (1) The legal description of the property;
 - (2) The required fee, as set forth in the city's fee schedule, as it may be amended from time to time;
 - (3) Evidence of ownership or an interest in the property;

- (4) Existing and proposed final grades utilizing two-foot contour intervals;
- (5) A survey showing the location and elevation of all roads, utilities, and structures which may be impacted by the proposal;
- (6) A tree survey showing all trees having a caliper of six inches or greater and a tree preservation plan;
- (7) A landscaping and site restoration plan;
- (8) A development concept plan indicating how the recontoured parcel may be developed in a manner consistent with this chapter and the comprehensive plan;
- (9) A drainage plan which includes any engineering work for stormwater retention must comply with LEC 105.04.770;
- (10) An erosion control plan indicating the type and location of erosion measures to be used, must comply with LEC 105.04.7870;
- (11) A traffic analysis showing how the materials will be removed from or delivered to the site;
- (12) Two copies of all available soil borings together with boring location maps and any other soil information pertinent to improvements;
- (13) The other information as may be required by the city;
- (14) A schedule of building construction phasing on permit site;
- (15) The hours of operation; and
- (16) The duration of activity.

(h) *Administrative review of grading and excavating permits.*

- (1) Grading or excavating plans that result in the moving of more than 50, but less than 400, cubic yards of material per acre may be approved by the city administrator upon recommendation of the city planner and city engineer. The application shall be accompanied by the submission requirements set forth in subsection (g) of this section.
- (2) Upon receipt of a completed application, the city planner shall review the application within ten working days and shall notify the applicant of the decision by mail. The city planner may impose the modifications and conditions as may be necessary to protect the public interest. Bonding may be required in any amount sufficient to ensure site restoration should the applicant default on his responsibilities.

(i) *City council review of grading and excavating permits.*

- (1) Grading and excavating plans that result in the moving of 400 cubic yards

of material per acre require a public hearing and approval of the city council. The application shall be accompanied by the submission requirements set forth in subsection (g) of this section.

- (2) Upon receipt of a completed application, the city clerk shall call a public hearing within 30 days from the date of application. Notice shall be published in the city's legal newspaper, and property owners within 350 feet of the project site shall be notified of the public hearing no less than ten days prior to the hearing. The application shall be reviewed by the city planner and city engineer and their written comments submitted to the city council.

(j) *Grading permit standards.* Grading and excavating permits shall be issued only for grading plans which comply with the following:

- (1) The plans shall maximize the preservation of trees on the property and utilize the trees to the maximum extent possible to screen the grading from adjacent property.
- (2) The plan shall utilize landscaping to restore site aesthetics, minimize the visual impact of the work, screen the grading from adjacent property, and enhance the property's development potential. All areas altered because of grading activity shall, at a minimum, be restored with seed and disked mulch or sod within two weeks after the completion of the activity. The city may approve an extension of this deadline, if appropriate, but in no case shall site restoration be delayed beyond October 1.
- (3) The plan shall not result in sites which are unsatisfactory for development of permitted uses. The development potential of a site may be adversely impacted by the matters as unsuitable finished grades, poor soil stability, unsatisfactory drainage, soil compaction detrimental to drainfield construction, or exposure to deleterious influences such as highway frontages for residential property.
- (4) The plan shall provide for the removal of any significant amounts of organic material or construction debris from the site.
- (5) In instances where an existing natural or created buffer will be impacted by grading or filling operations, site restoration shall be completed in a manner which resembles, to the extent possible, the original vegetative and topography state of the property, when deemed appropriate by the city.
- (6) The plan shall protect wetlands, floodplains, shorelands, public waters, and other natural features to the maximum extent possible.
- (7) The plan shall provide for adequate drainage, stormwater retention, and erosion control measures.

- (8) The plan shall provide for traffic movements to and from the site which do not have significant adverse effects on roads, intersection, or development in the area. Streets surrounding the site shall be swept as needed to remove any debris which may accumulate due to these activities.
- (9) The plan shall include a schedule of activities which limits the duration of off-site disruptions and impacts.
- (10) The plan must also be approved, where required, by appropriate watershed districts, the United States Army Corps of Engineers, the state department of natural resources, and any other government agency which has jurisdiction.
- (11)
 - a. The plan shall be accompanied by a bond sufficient to ensure compliance with the approved permit and adequate site restoration.
 - b. The amount of the bond shall be based upon the size of the site, sensitivity of its surroundings, extent of grading, amount of material moved, necessary site restoration and potential impacts upon public facilities, including damage to public roadways and property.
- (12) The plan shall comply with the state building code and all other applicable statutes or ordinances.

(Code 1997, § 505.03; Code 2007, § 151.017; Ord. No. 08-024, 4-20-2010; Ord. No. 08-147, 7-19-2016)

105.08.070 Private Road Permits

A permit shall be required to construct an asphalt, concrete, or gravel private road or alley. Fees are set forth from time to time by ordinance of the council.

(Code 1997, § 505.04; Code 2007, § 151.018)

105.08.080 Moving Buildings Into City

- (a) *Application.* Prior to moving a building or structure which will be located or relocated within the city, a moving permit must be obtained from the council. The application for a moving permit shall include the following information:
 - (1) A performance bond in an amount set forth by the council based on a written recommendation of the building official, city attorney, and/or city planner;

- (2) A certificate of insurance which indicates that the applicant has obtained liability coverage and property damage coverage in an amount set forth by the council based on a written recommendation of the building official, city attorney, and/or city planner;
 - (3) Photos of all sides of the building or structure;
 - (4) A complete description of the building or structure including its age and physical condition;
 - (5) A site plan;
 - (6) A percolation test for the site in the city on which the building will be located or relocated;
 - (7) An application fee set forth from time to time by council resolution;
 - (8) A written approval from utility companies;
 - (9) Proof of ownership of site in city on which the building will be located or relocated;
 - (10) Proof of state license for house and building moving; and
 - (11) The required fee.
- (b) *Inspection.* The building inspector shall inspect the building or structure for which the permit is requested before and after it is moved. Applicant shall reimburse the city for expenses incurred by the building official in order to inspect a building or structure located beyond the borders of the city. The expense reimbursement shall be made before issuance of the moving permit.
- (c) *Standards.* All improvements required to render the building or structure safe and suitable for occupancy shall be completed prior to occupancy. Additional improvements necessary to ensure that the building or structure complies with the city's building code and with the site grading requirements or landscaping requirements for the zone, in which the structure will be located, shall be completed within 12 months of the date of issuance of the moving permit. The building or structure as improved shall not materially depreciate surrounding property values.
- (d) *Review procedure.*
- (1) The completed application shall be submitted to the planning commission along with recommendations of the building official. The planning commission shall conduct a hearing on the application preceded by at least ten-days' mailed notice to all property owners within 350 feet of the building location site. The planning commission shall make its recommendation to the city council within 40 days after the completed application has been referred to the planning commission. If the planning

commission recommendation is not received within the required time, the council may take action without the planning commission's report.

- (2) The council may grant or deny the application or table it in order to obtain additional data necessary to make a reasonable decision. The council may require that the applicant post a performance bond, letter of credit, or cash deposit in a reasonable amount in order to ensure that applicant completes those improvements which are required to be completed within 12 months of the date of the issuance of the moving permit.

(Code 1997, § 505.05; Code 2007, § 151.019; Ord. No. 9706, 5-20-1997)

105.08.090 Exterior Finish

The exterior of all structures must be finished within six months from the date of commencement of construction of the structure. The building official may extend the completion date for large scale projects or demonstrated hardship.

(Code 1997, § 505.06; Code 2007, § 151.020; Ord. No. 08-147, 7-19-2016)

105.08.100 Security Escrow For Construction

- (a) *Security escrow.* A security escrow in an amount established by the city's fee schedule or building official shall be paid before a building permit is issued for the construction of all new structures and other significant construction related projects at the discretion of the city. The security shall be returned to the applicant upon the successful completion of the following:

- (1) Compliance with the state building code;
- (2) Compliance with the city Code; and
- (3) Compliance with specified requirements as determined by the building official.

- (b) *Purpose.* The security may be used at any time for the remediation of construction related damage or debris on and around the site and other violations of the city Code, including, but not limited to, erosion control, street maintenance, and landscaping. If the security items are not completed within six months of start of construction, excluding the time between November 1 and April 1, or upon the builder filing bankruptcy, or if the job is abandoned for 30 days or more, the city may enter the lot, perform the work, and apply the security toward the cost, plus administrative fees.

- (c) *Action against the financial security.* The city shall use the security to finance remedial work undertaken by the city, or a private contractor under contract to the city including a fee to the city for processing equal to ten percent of any

contractor's invoice for materials and services, to reimburse the city for all costs incurred in the process of remedial work, including, but not limited to, staff time, engineering fees and attorney's fees.

- (d) *Maintenance of financial security.* If at any time the financial security is drawn upon, the applicant may be required to submit additional security to restore the security to the full amount as originally established. Restoring the full security is a requirement prior to resuming work on the site.

(Code 2007, § 151.022; Ord. No. 08-65, 1-15-2013)

105.08.110 Survey

The building inspector may require a certificate of survey showing the actual dimensions of the lot to be built on, the exact size and location on the lot of the building and accessory buildings to be erected, and other information as may be necessary to determine compliance with the city Code, before issuing a building permit for new construction on any lot.

(Code 1997, § 505.09; Code 2007, § 151.023)

105.08.120 Incompatible Structures

- (a) *Referral by building official and city administrator.* Whenever an application is filed with the city for a building permit for any structure to be built, enlarged, or altered within, or moved in or into the city, and the building official finds that the application, plans, and specifications, and the plot plan submitted (the application papers) comply with the code of the city except that the application papers provide for a structure, the exterior design, appearance, and functional plan which the building official and city administrator, feel may be so at variance or so similar with the exterior design, appearance, and functional plan of structures in the neighborhood and same zoning district of the proposed structure as to cause a material depreciation generally to property in the neighborhood, then the building official shall, within ten days after the receipt of the application papers, file the papers and the opinion in writing, signed by the building official and city administrator, with the planning commission.
- (b) *Call of hearing.* Within ten days after the receipt of the application papers and opinions, the city administrator shall give notice to each member of the planning commission and to the public by publication in the official paper and to any other persons the city administrator deems advisable, of a hearing to be held by the planning commission with respect to the application. The notice shall state the purpose of the hearing and the location of the structure. Notice to the applicant shall be by registered mail at least three days in advance of the hearing, provided appearance at the hearing shall constitute a waiver of any defect in the notice of the hearing. The hearing on the application shall be held not less than one week,

nor more than two weeks, after receipt of the application by the city.

- (c) *Hearing and findings.* Before or during the hearing, each member of the planning commission may view the premises upon which the structure is located or to be located, and at the hearing the commission shall examine the application papers and hear the applicant. It may also hear any citizens of the neighborhood and other individuals who request to be heard. Within 48 hours of the close of the hearing, the commission shall, pursuant to a majority vote of all the members of the commission, file written findings of the fact. It shall determine whether the exterior design, appearance, and functional plan of the structure is or is not at a variance or so similar with the exterior design, appearance, and functional plan of structures constructed or in the course of construction in the neighborhood of the proposed structures (in the same zoning district) as to cause material depreciation generally to property in the neighborhood. The commission shall further make a recommendation that the application be accordingly granted or denied. The finding, determination, and recommendation shall be in writing, signed on behalf of the planning commission by its chair. The city administrator shall file a certified copy of the finding, determination, and recommendation with the building official and shall mail a copy to the applicant. The application papers, the written opinions, and the findings, determinations, and recommendations of the planning commission shall immediately be presented by the city administrator to the council at its next regular meeting. Further action with respect to the application shall be held in abeyance pending order and direction of the council. In that case, no permit with respect to the application shall be issued except upon order and direction of the council.

(Code 1997, § 505.11; Code 2007, § 151.025; Ord. No. 08-147, 7-19-2016)

105.08.130 Construction Site Erosion Control

(a) Site grading.

- (1) *Submission requirements.* All applications for a building permit shall include a plot or site plan detailing the proposed finished grades of the site at all building corners and all lot corners. All grades proposed shall be consistent with the approved grading plan for the subdivision in which the building site is located.
- (2) *As built grades certification.* Amounts collected by the city and held in escrow as security to ensure completion of construction projects for any activity which requires a permit shall be held until the builder or the property owner has provided the city with a certificate of a registered surveyor or civil engineer attesting to the as built grades of all building corners and site corners, and the certificate shows all the grades to be consistent with the plot or site plan attached to the building permit application.

- (b) See LEC 105.04.790 and LEC 105.04.800 for additional requirements.
- (c) The requirements for construction site stormwater management and erosion and sediment control are found in LEC 105.04.750.

(Code 1997, § 505.13; Code 2007, § 151.027; Ord. No. 97-83; Ord. No. 08-024, 4-20-2010; Ord. No. 08-147, 7-19-2016)

105.08-III FIRE DETECTION

105.08.140 Fire Prevention And Protection

105.08.140 Fire Prevention And Protection

- (a) *State fire code adopted.* The state fire code, as adopted by the commissioner of labor and industry pursuant to M.S.A. ch. 299F.011, including all of the amendments, rules and regulations established, and appendix chapters as outlined below, adopted and published from time to time by the state commissioner of public safety, through its fire marshal division is hereby adopted by reference and incorporated in this section as completely as if set out in full. A person desiring a permit, as required by the state fire code, shall submit an application to the fire code official along with any fee required by the city fee schedule.
- (b) *Appendix chapters adopted.* The following appendix chapters, as identified in the state fire code, are hereby adopted and incorporated:
 - (1) Appendix C: Fire Hydrant Locations and Distribution;
 - (2) Appendix D: Fire Apparatus Access Roads;
 - (3) Appendix H: Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) Instructions;
 - (4) Appendix I: Fire Protection Systems--Noncompliant Conditions;
 - (5) Appendix K: Fires or Barbeques on Balconies or Patios; and
 - (6) Appendix L: Emergency Responder Radio Coverage.
- (c) *Use of the terms of the fire code.* Wherever the term "jurisdiction" is used in the state fire code, it shall mean the city. Where the term "fire code official" is used in the state fire code, it shall mean the city building official.
- (d) *Duties and responsibilities of the fire code official.* The fire code official or his authorized representative shall have the following duties and responsibilities:
 - (1) Enforcement of the provisions of this section;
 - (2) May order the establishment of fire lanes on public or private property as

may be necessary in order to ensure that the travel of fire equipment is not be impeded or interfered with, and that access to fire hydrants and buildings is not blocked off. When a fire lane has been ordered to be established, it shall be marked by a sign bearing the words "No Parking-- Fire Lane" or a similar message. If the sign is on private property, it shall be erected and maintained by the property owner at the property owner's expense. Such sign must be installed within 30 days after notification by the fire code official that a fire lane must be established. Thereafter, no person shall park a vehicle or otherwise occupy or obstruct the fire lane; and

- (3) Keeping on file with the city all statutes and regulations applicable to this section.

(e) *Fire inspections.* In order to ensure the health, safety, and public welfare, the city will inspect existing facilities in accordance with established policy. A fire service fee will be charged in accordance with the city's fee schedule for new construction, additions and alterations where a building permit is required.

(f) *Lock boxes.* Lock boxes are required on all new commercial structures in the city. They shall meet the following requirements:

- (1) The lock box must be mounted in an easily accessible location near the main entrance of the structure or as otherwise approved in writing by the fire chief;
- (2) The lock box must contain all keys necessary to gain access to the commercial structure as well as access to interior areas of the structure; and
- (3) The fire chief must be contacted when access to a lock box is requested by the property owner in order to change keys for various building locks.

(g) *Hazardous material list.* With respect to commercial properties, the property owner must provide the fire chief with the following information related to hazardous materials and chemicals on the property. This information must be updated annually and when shipments of new or seasonal hazardous materials or chemicals are received on the property.

- (1) A list of all hazardous materials and chemicals stored in the structures and on the property;
- (2) A drawing to scale which provides the quantities of the materials and chemicals; and
- (3) A material data sheet for each hazardous material or chemical.

(Code 2007, § 151.041; Ord. No. 97-118, 4-1-2003; Ord. No. 08-147, 7-19-2016)

105.08-IV PRINCIPAL BUILDINGS

105.08.150 Minimum Standards

105.08.150 Minimum Standards

- (a) *Regulations.* All principal buildings shall meet or exceed the minimum standard of the state building code or the manufactured housing code, the state uniform fire code, the state department of health, the state pollution control agency, and the city's on-site sewage treatment ordinance.
- (b) *Existing neighborhoods.* When the principal building is a dwelling unit in an existing neighborhood, it shall contain no less than 75 percent of the average square footage, in finished living area, of the homes in that block. This provision may not be construed to require more than 940 square feet in finished living area for a two-bedroom dwelling unit, in any neighborhood.
- (c) *Undeveloped areas.* When the principal building is a dwelling unit in an undeveloped block, it shall be required to meet the requirements of subsection (a) of this section only.

(Code 1997, § 515.01; Code 2007, § 151.055)

105.08-V SWIMMING POOLS

105.08.160 Swimming Pools; Generally

105.08.160 Swimming Pools; Generally

- (a) *Permits required.* No person, corporation, partnership, or firm shall construct, repair, enlarge, alter, change, remodel, or otherwise significantly improve a swimming pool in the city without first having obtained a permit from the building official.
- (b) *Definitions.* Unless specifically defined in this section, common definitions, words, and phrases used in this section shall be interpreted so as to give them the same meaning as they have in common usage through this Code. Definitions are found in LEC 1.08.
- (c) *Application for permit.* The building official may require plans, specifications, and pertinent explanatory data be submitted with an application for a permit.
 - (1) An application for a permit which includes a site plan showing:
 - a. The type and size of pool, location of pool, location of house, garage, fencing, and other improvements on the lot;
 - b. The location of structures on all adjacent lots;
 - c. The location of filter unit, pump, and writing indicating the type of

- the units;
 - d. The location of back-flush and drainage outlets, grading plan, finished elevations, and final treatment (decking, landscaping, and the like) around pool;
 - e. The location of existing overhead or underground wiring, utility easements, trees, and similar features;
 - f. The location of any water heating unit;
 - g. The location of water supply systems, buried sewers, and sewage disposal systems, other utilities and proximate sources of possible contamination of the pool; and
 - h. All dimensions, including the length, width, depth of the pool, the size of the pool deck, and the liquid capacity of the pool; plans shall be drawn to a scale of not smaller than one-fourth inch to one foot;
- (2) The application shall be accompanied by the permit fee the council establishes by resolution.
 - (3) Pools shall not be located within 20 feet of any septic tank/drainfield nor within six feet of any principal structure or frost footing. Pools shall not be located within any required front or side yard setbacks.
 - (4) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
 - (5) Pools shall not be located within any private or public utility, walkway, drainageway, or other easements.
 - (6) In the case of underground pools, the necessary precautions shall be taken during the construction to:
 - a. Avoid damage, hazards, or inconvenience to adjacent or nearby property; and
 - b. Ensure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust, or other infringements upon adjacent property.
 - (7) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.
 - (8)
 - a. 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.

b. Water shall not drain onto adjacent or nearby private land.

- (9) The filter unit, pump, heating unit, and any other noise-making mechanical equipment shall be located at least 50 feet from any adjacent or nearby residential structure and not closer than ten feet to any lot line.
- (d) *Pool piping.* Pool piping systems shall be constructed of materials prescribed in the city plumbing code. Installation of the piping, including the pool water supply line, shall be inspected by the building official prior to covering the piping.
- (e) *Main outlets.* Pools shall be equipped with facilities for completely emptying the pool and effecting surface drainage (by gravity, if elevations permit). The drainage system shall be constructed in accordance with the provisions of the city plumbing code.
- (f) *Water supply.* Water supplies serving all swimming pools shall be of a safe sanitary quality and be acceptable to the county health officer. The installation of the pool water supply piping and connection to the source of supply shall be in accordance with the city plumbing code.
- (g) *Electrical requirements.* All electrical installations provided for, installed, and used in conjunction with residential swimming pools shall conform with the state electrical code and shall be inspected and approved by the state electrical inspector. No current-carrying electrical conductors shall cross residential swimming pools, either overhead or underground or within 15 feet of the pools, except as necessary for pool lighting or pool accessories.
- (h) *Heating requirements.* Permits shall be required for all heating units used in conjunction with swimming pools. Installation shall be made in accordance with the city heating building code in effect at the time of installation.
- (i) *Pressure relief valves.* Pools shall be designed and constructed with under-drain systems and pressure relief valves to prevent pool flotation, where the building official determines the same to be necessary.
- (j) *Shield lights.* Lights used to illuminate any swimming pool shall be so arranged and shielded so as to reflect light away from adjoining properties.
- (k) *Location.* All swimming pools or appurtenances to swimming pools shall be located in the rear yard and meet the setback requirements of the district in which it is located. Requests for a variance from the provisions of this section shall be referred first to the planning commission for its study and recommendation and then to the council.
- (l) *Fences.* All swimming pools shall be completely enclosed by a non-climbable type fence. All fence openings or points of entry into the pool area shall be equipped with gates. The fence and gates shall be at least four feet in height and shall be constructed of a minimum number 11 gauge woven wire mesh corrosion-

resistant material or other material approved by the building official. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate or otherwise be 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 openings between the bottom of the fence and the ground or other surface shall not be more than four inches.

- (m) *Above ground swimming pools.* Ladders or stairs which are attached to or placed against the outside of above ground tank-type swimming pools having a depth of 24 inches or more shall be removed from the outside of the pool when it is not being used by the owner or owner's authorized guests. All other applicable provisions of this section shall apply to above ground pools.
- (n) *Public or semi-public swimming pools.* Swimming pools, other than residential pools, shall be constructed and operated in conformance with standards for the installations established by the state board of health. In addition, the person, firm, corporation, or agency proposing the construction of a swimming pool other than residential shall file with the building official, prior to the beginning of any construction, a copy of the report prepared and issued by the state health department showing approval of the plans, and one set of pool plans upon which the approval is indicated by stamp, seal, or other official marking of that agency.

(Code 1997, § 525.01; Code 2007, § 151.085; Ord. No. 08-147, 7-19-2016)

105.08-VI TENNIS COURTS

105.08.170 Tennis Courts; Generally

105.08.170 Tennis Courts; Generally

- (a) *Permits required.* A permit shall be required for all private tennis courts on residential lots.
- (b) *Application.* An application for a permit shall include name, address, lot and block number, and a site plan showing the size, shape, and pavement and sub-pavement materials, the location of the court, the location of the house, garage, fencing, septic systems, and any other structural improvements on the lot, the location of structures on all adjacent lots, a grading plan showing all revised drainage patterns and finished elevations at the four corners of the court, landscaping and turf protection around the court, location of existing and proposed wiring and lighting facilities.
- (c) *Administration.* Permits shall be issued by the building official.
- (d) *Applicable standards.*
 - (1) Tennis courts shall not be located closer than ten feet on any side or rear lot line. Tennis courts shall not be located within any required front yard.

- (2) Tennis courts shall not be located over underground utility lines of any type, nor shall any court be located within any private or public utility, walkway, drainageway, or other easement.
 - (3) Solid tennis court practice walls shall not exceed ten feet in height. A building permit shall be required for the walls. The walls shall be set back a minimum of 30 feet from any lot line.
 - (4) Chain link fencing surrounding the tennis court may extend up to ten feet in height above the tennis court surface elevation.
- (e) *Fees.* Fees shall be based on the value system established in the state building code, or as adopted by ordinance of the council.

(Code 1997, § 530.01; Code 2007, § 151.100)

105.08-VII SIGNS

[105.08.180 Purpose And Findings](#)

[105.08.190 Administration And Enforcement](#)

[105.08.200 General Standards](#)

[105.08.210 Specific Regulations By Zoning District](#)

[105.08.220 Sign Variances](#)

105.08.180 Purpose And Findings

- (a) *Purpose.* The city sign regulations are intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the business community's need for effective communication and identification. It is not the purpose or intent of these regulations to favor commercial messages or speech over noncommercial messages or speech or to discriminate between types of noncommercial speech or the viewpoints represented therein. It is the intent of these regulations to promote the health, safety, general welfare, and desirable rural community image through the regulation of signs with the following objectives in mind:
- (1) Signs shall demonstrate a high standard of aesthetic character and encourage the use of monument and individual letter-style signs;
 - (2) Permit large enough copy/graphic area to effectively convey the intended message but not so large as to unduly distract the reader and insist on lettering large enough to be easily read to encourage simple, uncluttered messages;
 - (3) Signs shall be proportioned to the size of, and architecturally compatible with, the structures and other signs on the premises;
 - (4) Permanent signs shall only advertise on-premises businesses, services, facilities, and the like;

- (5) Allow temporary business signs for grand openings and occasional sales events; allow temporary signs to advise the public of the seasonal sale of agricultural and horticultural products in keeping with the city's rural image; and to allow temporary directional signs permitting the public to more easily locate land conservation developments which enhance the city's rural image, without creating continuous visual clutter or traffic hazards along streets or at intersections;
- (6) Signs shall be properly maintained;
- (7) Dynamic signs that distract drivers, cyclists and pedestrians shall not be permitted. Studies conducted by public and private agencies have identified that dynamic signs, including multi-vision signs, electronic signs and video displays can be highly distracting to drivers, pedestrians, and cyclists and that distraction is a significant underlying cause of traffic accidents. With respect to electronic signs, including video display signs, the city finds that they are highly visible from long distances and at very wide viewing angles both day and night and are designed to catch the eye of persons in their vicinity and hold it for extended periods of time. If left uncontrolled, electronic signs, including video display signs, constitute a serious traffic safety threat. Studies conducted by the Federal Highway Administration (FHWA), Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction, September 11, 2001, and The Role of Driver Inattention in Crashes: New Statistics from 1995; the University of North Carolina Highway Safety Research Center, Distractions in Everyday Driving, May 2003 and The Role of Driver Distraction in Traffic Crashes, May 2001; the Wisconsin Department of Transportation, Synthesis Report of Electronic Billboards and Highway Safety, June 10, 2003; the Municipal Research and Services Center of Washington, Sign Control Provisions, Jan. 2006; the Veridan Group, Video Signs in Seattle, Gerald Wachtel, May 2001, reveal that electronic signs are highly distracting to drivers and that driver distraction continues to be a significant underlying cause of traffic accidents.

(b) *Findings.* The city hereby finds that regulation of the construction type, location, size, and maintenance of signs is necessary to accomplish the above-referenced objectives, because:

- (1) The presence of permanent and temporary signage affects the rural image of the city;
- (2) Properly regulated signage can create an atmosphere of prosperity, stimulate commercial activity, and consequently, lead to increased employment and a healthier tax base;
- (3) The safety of motorists, cyclists, and pedestrians can be threatened by

signage that interferes with necessary sight-distances and/or unduly diverts the attention of such persons;

- (4) Signs that are too bright, overly illuminated, flash, blink, scroll, twirl, change messages or color, or imitate movement, including video displays, can distract drivers, cyclists and pedestrians and impact traffic safety.

(Code 2007, § 151.115; Ord. No. 08-015, 7-21-2009)

105.08.190 Administration And Enforcement

- (a) *Permit required.* No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

- (1) *Permanent signs.* To apply for a permanent sign permit, a complete application shall be submitted to the city containing the following:

- a. Names and addresses of the applicant, owners of the sign, and lot;
- b. The address at which the signs are to be erected;
- c. The legal description of the property on which the signs are to be erected and the street on which they are to front;
- d. A complete set of scaled plans showing the sign dimensions, area, height, ground elevations, applicable setbacks, and other details to fully and clearly represent the safe construction and placement of the proposed signs;
- e. Type of signs being requested (i.e., wall sign, monument sign, and the like);
- f. The permit fee; and
- g. The following if applicable:
 - 1. Written authorization from the property owner upon who's land the sign is to be erected;
 - 2. A permit from either MnDOT or the county if the proposed sign is along a state highway or county road;
 - 3. A sign plan showing signs for all businesses if the sign is located on a building with more than one business;
 - 4. Photographs of the building face and the building faces of both adjacent buildings if the sign is being placed on an

existing structure; and

5. If replacing an historical sign, pictorial proof or other information that the sign is of historical significance or is a reproduction of an historic sign.

(2) *Temporary signs.* To apply for a permit to allow a temporary sign, a complete application shall be submitted to the city containing the following:

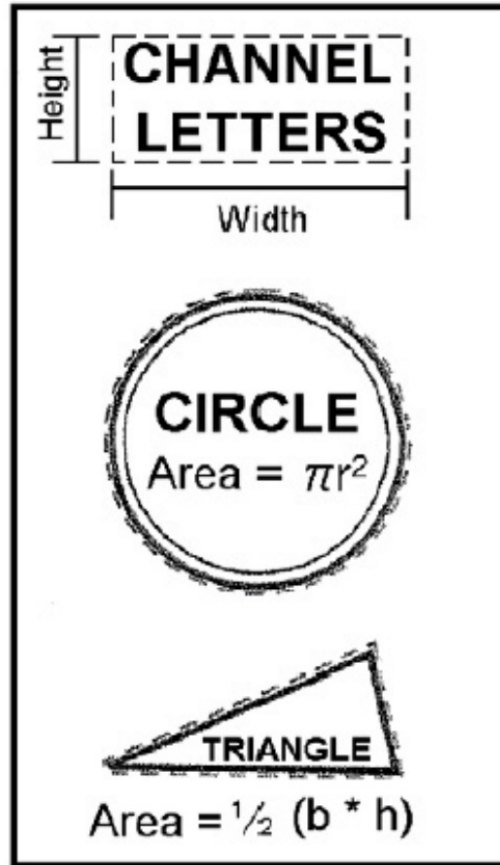
- a. Names and addresses of the applicant, owners of the sign, and lot;
- b. The address at which the signs are to be erected;
- c. A generalized plan set showing the sign dimensions and height, and a notation of the materials to be used;
- d. A scaled site plan which clearly represents the placement of the proposed signs on the applicable property;
- e. The proposed timeframes over which the signs will be posted;
- f. The permit fee; and
- g. The following if applicable:
 1. Written authorization from the property owner upon who's land the sign is to be erected; and
 2. A permit from either MnDOT or the county if the proposed sign is along a state highway or county road.

(3) *Temporary sign renewal.* A temporary sign permit issued by the city may be renewed, provided the sign design, size, location, or other previously approved details are not proposed to change. A sign renewal application shall include the following:

- a. Names and addresses of the applicant, owners of the sign, and lot;
- b. The address at which the signs are to be erected;
- c. The date of issuance of the permit being renewed;
- d. The proposed timeframes over which the signs will be posted;
- e. Written authorization from the property owner upon whose land the sign is to be erected (if applicable); and
- f. The permit renewal fee.

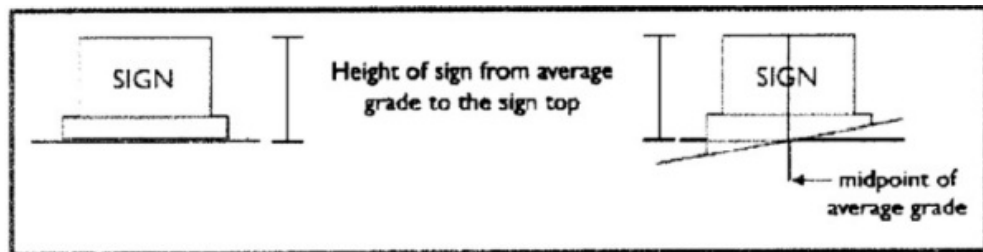
- (4) *Review.* The planning department shall approve or deny complete sign permit applications upon receipt of a complete application. If the permit is denied, the planning department will send a written notice of denial to the applicant. The written notice will indicate the reasons for denial and a description of the applicant's appeal rights.
- (b) *Exemptions.* The following signs shall not require a permit but shall still comply with all provisions of this subchapter or any other law or ordinance regulating signs.
 - (1) The changing of the display surface on a previously approved sign.
 - (2) Signs six square feet or less in size, per surface if double sided.
 - (3) Window signage that does not cover more than one-third of the total area of the window in which the sign is displayed.
 - (4) Governmental signage.
- (c) *Fees.* The fee for a sign permit is established yearly in the city's adopted fee schedule as indicated in appendix A.
- (d) *Computations.*
 - (1) *Sign area measurement.* The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building facade against which it is placed. When a sign has two back-to-back sign faces containing sign copy, the sign area for both faces are counted toward the total allowed sign area. Poles, bases, and other supports shall not be included in the sign area calculation.

Figure 1: Sign Area Measurement



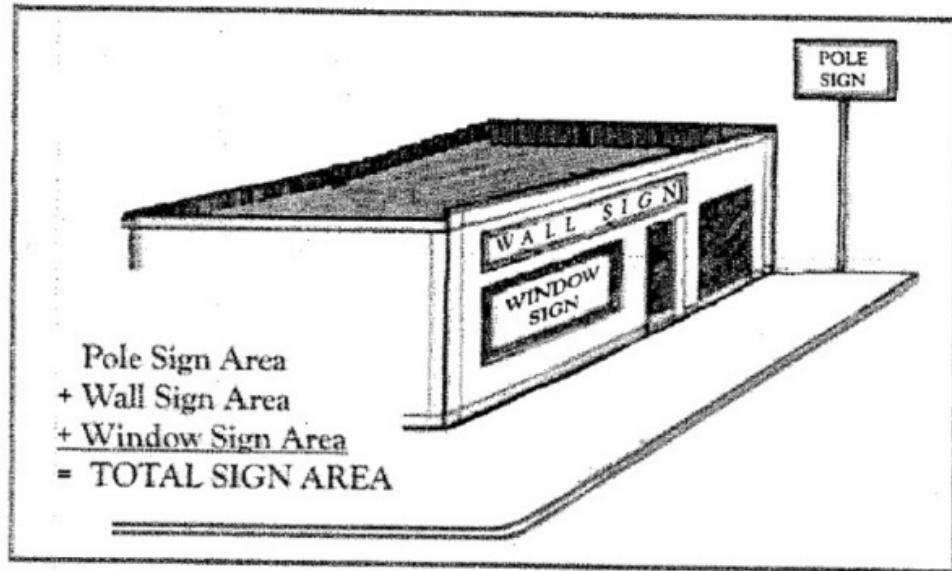
- (2) *Sign height measurement.* The height of the sign shall be computed as the vertical distance measured from the average grade at the base of the sign to the top of the highest attached component of the sign.

Figure 2: Sign Height Measurement



- (3) *Total sign area calculation.* The total square footage of all sign surfaces shall be computed by adding together the sign areas of all signs on a property.

Figure 3: Total Sign Area Measurement Example



(e) *Construction, maintenance and repairs.*

- (1) The construction of all signs, unless otherwise stated herein, shall be in conformance with the provisions of the Uniform Sign Code published by the International Conference of Building Officials, 1997 edition, as may be amended, which is hereby adopted by reference and made a part of this subchapter.
- (2) All signs and structures shall be properly maintained and shall be constructed of sufficiently permanent material so that they shall not succumb to deterioration from weathering.
- (3) Any existing sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, replaced, or removed if repair is not feasible. Sign maintenance shall be the responsibility of the underlying fee owner.

(f) *Abatement.* If the city finds that any sign has been erected without the necessary approvals or any sign is being maintained in violation of any zoning provision, the city may give written notice of such violation to the installer of the sign; to the permit holder; and/or to the owner, lessee or manager of the property. If, after receiving said notice, such person fails to remove or alter the sign so as to comply with the provisions of the zoning ordinance codified in LEC 105.12, the sign shall be deemed to be a nuisance and may be abated by the city under M.S.A. ch. 429. The cost of such abatement, including administrative expenses and reasonable attorney's fees, may be levied as a special assessment against the property upon which the sign is located.

(Code 2007, § 151.116; Ord. No. 08-015, 7-21-2009)

105.08.200 General Standards

- (a) *Abandoned signs.* Abandoned signs shall be removed.
- (b) *Building identification.* A building address, date of construction, commemorative tablet, and the like; shall not count towards the overall permitted signage on a building or parcel. All forms of building identification, except for the building address, shall be cut into a masonry surface or be constructed of bronze or other incombustible material.
- (c) *Building official review.* No sign shall be attached to or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the city building official.
- (d) *Changeable copy signs.* A changeable copy sign, such as a reader board, may be integrated into an allowable sign subject to the following restrictions:
 - (1) The message conveyed by the sign face shall not blink, flash, scroll or be so animated as to be deemed a distraction to passing motorists;
 - (2) Copy on the sign shall not change more than once per day on average (except for time, temperature, and price information which must change when necessary for accuracy);
 - (3) Characters and backgrounds depicted on a changeable copy sign shall not use florescent coloring; and
 - (4) All changeable copy sign faces shall be limited to a maximum of 25 square feet in sign area, or the maximum size of the type of sign on which the face is placed, whichever is less.
- (e) *Flags.* No more than three flags may be displayed on any given parcel. Individual flags shall not exceed 50 square feet in size per surface.
- (f) *Illumination.*
 - (1) Illumination of signs shall comply with LEC 105.04.050 et seq., code requirements governing lighting, glare control, and exterior lighting standards.
 - (2) Indirect illumination for signs shall be so constructed and maintained that the source of light (i.e., the bulb; not the fixture) is not visible from the public right-of-way or residential property.
 - (3) Back-lit awnings are prohibited.
- (g) *Ingress or egress.* No sign or structure shall be erected or maintained if it prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

- (h) *Landscaping.* Sign owners shall be required to maintain the appearance of the ground around all signs detached from buildings and to landscape where possible.
- (i) *Master sign program.* A master sign program shall be reviewed and approved for all multi-tenant commercial buildings and for all business park development to coordinate all signage for current and future tenants. The master sign program shall be reviewed as a permanent sign permit, but shall only authorize the general locations and sizes of signs to be erected within a development or on a multi-tenant building. Individual permanent sign permits shall still be needed for the placement of permanent signs in accordance with an approved master sign program. Master sign programs shall be subject to the following requirements:
- (1) A master sign program shall include a to-scale site plan which identifies the overall sign types, sizes, and locations for all proposed signage on the sites. The site plan shall not contain the names of any current or future tenants or occupants of the center or overall development;
 - (2) The master sign program shall include a calculation of allowable sign square footage for the sites based on applicable zoning requirements and lot characteristics;
 - (3) The master sign program shall include square footage calculations for individual signs proposed for the sites, along with a total sign square footage area calculation;
 - (4) All signs within a master sign program shall be visually consistent in location, design, and scale; and
 - (5) The master sign program may be reviewed concurrently with a separate permanent sign permit for the individual signs identified in the master sign program. The separate permanent sign permit shall include all information required by LEC 105.08.190(a)(1), and may only be approved if the master sign program is approved.
- (j) *Multi-tenant buildings.*
- (1) Multi-tenant buildings are herein considered a single commercial establishment, and shall be limited to one freestanding sign amongst all planned/allowed signage subject to the following requirements:
 - a. If the multi-tenant commercial building has a floor area of 40,000 square feet or less, the sign shall not exceed 40 square feet (per side) and shall not exceed eight feet in height;
 - b. If a multi-tenant commercial building has a floor area greater than 40,000 square feet but less than 100,000 square feet, the sign shall not exceed 75 square feet (per side) and shall not exceed nine feet in height; and

- c. If a multi-tenant commercial building has a floor area of greater than 100,000 square feet, the sign shall not exceed 120 square feet (per side) and shall not exceed 15 feet in height.
- (2) Where a building, group of attached buildings on the same block, or center contains more than one business, the allowable sign area for any single business may be its portion of the gross square footage of the building or center applied as a percentage to the allowable sign area of the entire building or center, subject to size limitations for specific signs within an approved master sign program.
- (k) *Neighborhood identification signs.* Independent of the total allowable sign area for individual residences within a residential zoning district, two ground signs for a unified residential area with six or more lots may be allowed consistent with the following provisions:
 - (1) *New subdivisions:*
 - a. Neighborhood identification signs shall be approved as a component of a preliminary and final plat to be included as part of a new subdivision;
 - b. Each sign shall be single sided, not exceed a total of 24 square feet in sign area, and not exceed a total of 48 square feet inclusive of poles, bases, and other supports;
 - c. Signs are to be located on outlots of sufficient size and area to accommodate them or within a dedicated permanent sign easement. A homeowner's or neighborhood association is required for the area identified by the signs which shall own and be responsible for the upkeep, perpetual maintenance, taxes, insurance, utilities, and other costs associated with the signs and their property. The association rules or bylaws shall specify how the aforementioned sign responsibilities will be delegated and paid for. City staff shall review the proposed bylaws to ensure that they specify the aforementioned responsibilities;
 - d. Outlots or easements for signs are to be considered and planned for at the time of preliminary plat application and shall be included in the final plat. A developer's agreement shall specify the designated use of the outlot or easements, its ownership, and the respective homeowner's association responsibilities regarding the proposed improvements;
 - e. Only indirect lighting of neighborhood identification may be approved. The electric costs and maintenance of such lighting shall be the responsibility of the homeowner's association or neighborhood association of the area identified by the signs and

shall be clearly noted in the association's rules or bylaws;

- f. The area around the sign is to be landscaped and maintained in such a manner to accent and enhance the sign while remaining sensitive to the natural features of the site. Detailed site and landscape plans shall be included with each sign permit application and shall be subject to review by the planning commission and city council at the time of preliminary plat;
- g. The design and construction of neighborhood area identification signs shall be done with the highest quality materials and workmanship to keep maintenance and upkeep costs to a minimum and to minimize the potential for vandalism. Neighborhood area identification signs are to be aesthetically pleasing when designed and constructed. The signs shall be compatible with nearby or potential homes and other structures in the area. Detailed construction plans and a materials list shall be included with the preliminary plat application; and
- h. The city reserves the right to require the removal, at the owner's expense, of any sign when the requirements of this section and this subchapter are not completely followed and adhered to or if the sign is not properly maintained or falls into a state of disrepair. The city shall not have any obligation or liability to replace any sign or nearby landscaping when removed by the city.

(2) *Existing unified residential areas.* A neighborhood identification sign may be allowed by conditional use permit for existing unified residential areas. If no outlots or easements were originally designated for signs, the plat may be amended to provide for such a proposal and shall meet the same criteria and requirements as set forth for new subdivisions.

(l) *Noncommercial speech signs.* Notwithstanding any other provisions of this subchapter, all signs of any size containing noncommercial speech may be posted from August 1 in any general election year until ten days following the general election and 13 weeks prior to any special election until ten days following the special election.

(m) *Private on-premises directional signs.* Signs located on, above or beside entrances or exits to buildings or driveways which direct pedestrians or vehicles (e.g., "employees entrance," "exit only," "restrooms," and the like) shall not count towards the overall permitted signage on a site provided such signs are no more than four square feet in area.

(n) *Prohibited signs.* The following signs are prohibited in all zoning districts:

- (1) Signs obstructing vision. Any sign which obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic-control

device. This includes indoor signs that are visible from public streets.

- (2) Unofficial traffic signs or signals. Any sign which contains or imitates an official traffic sign or signal, except for private, on-premises directional signs which do not interfere with traffic flows on public roads.
- (3) Off-premises advertising signs. Off-premises advertising signs except as specifically allowed.
- (4) Signs with moving parts, moving lighting or animation. No sign shall display any moving parts, be illuminated with any flashing or intermittent lights, use changing light intensity, utilize spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light (including, but not limited to, revolving beacons, beamed lights, or similar devices), or be animated. The only exceptions to this provision include allowable changeable copy signs; barbershop poles; and static time, temperature, and price information changing only when necessary (which shall be allowed provided the message depicted is reasonably accurate).
- (5) Roof signs.
- (6) Banners, pennants, ribbons, streamers. No sign which contains or consists of banners, pennants, ribbons, streamers, string of light bulbs, spinners, or similar devices; except when used for noncommercial purposes, as a governmental sign, or as part of an approved master sign program or special event temporary sign permit.
- (7) Portable signs, including, but not limited to, signs with wheels removed, attached temporarily or permanently to the ground, structure or other signs, mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, hot air or gas filled balloons or semitruck umbrellas used for advertising. This prohibition shall not include business vehicle identification signs when the vehicle is being used for the normal day-to-day operations of a permitted business.
- (8) Signs supported by a guy wire.
- (9) Billboards.
- (10) Electronic variable message signs.
- (11) Signs on natural surfaces. No sign shall be painted, attached or in any other manner affixed to trees, rocks, or similar naturally occurring surfaces within the city. This shall not prohibit the use of natural building materials (e.g., boulders) in the construction of a legally permitted sign.
- (12) Snipe signs.

(o) *Public lands and rights-of-way.* No signs other than governmental signs shall be

erected or temporarily placed within any street right-of-way or upon public lands or easements or rights-of-way without council approval.

(p) *Regulations for specific sign types.*

(1) *Wall signs.*

- a. A wall sign shall be located on the outermost wall of any principal building but shall not project more than 16 inches from the wall to which the sign is to be affixed.
- b. A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed.
- c. Wall signs authorized by a master sign program shall not exceed 25 square feet per business, and all signs shall be visually consistent in location, design, and scale.
- d. Wall signs may be placed on not more than three walls of rectangular shaped structures or not more than 75 percent of the major walls on non-rectangular-shaped buildings.

(2) *Mural signs.*

- a. Mural signs shall not be limited in size, but any commercial or noncommercial language incorporated into the mural sign shall be limited in size by the restrictions established for the applicable zoning district.
- b. In addition to the standard conditional use criteria in the zoning code LEC 105.12, mural signs shall also be subject to the following:
 1. The location for the proposed mural sign shall be viewable by the public and be accessible;
 2. The scale and suitability of the mural sign shall be appropriate in the context of the surrounding properties;
 3. The artists commissioned to complete the mural must provide documentation of demonstrated craftsmanship on similar projects;
 4. The applicant shall provide sureties to the city guaranteeing completion of the project within the proposed timeframe;
 5. The applicant shall demonstrate that the necessary funds are available for the proposed project; and
 6. The applicant must be able to show the final mural will last

a minimum of five years and be reasonably resistant to vandalism and weather.

(3) *Projecting, awning, and canopy signs.*

- a. Projecting signs and awning signs shall be located on street level.
- b. If lighted, projecting, awning, and canopy signs shall use indirect illumination.
- c. Awning or canopy signs shall not project higher than the top of the awning or canopy or below the awning or canopy.
- d. Clearance. The bottom of a projecting sign or awning shall be a minimum of eight feet above the ground surface when projecting over a private or public walkway.

(4) *Freestanding signs.* Freestanding signs shall not be erected or maintained any closer than three feet to any building.

(q) *Separation angle.* So as not to create a double exposure or increase sign size limitations, there shall be a maximum separation angle of 45 degrees for signs which are back to back. In all residential districts, double-faced signs shall be parallel.

(r) *Signs needing electricity.* Signs needing electricity shall be subject to all applicable electrical codes as may be amended. Overhead wiring for such signs is prohibited.

(s) *Special sign districts.* All general sign regulations shall apply to signs within each of the special sign districts except as specifically noted herein.

(1) *Old Village.*

- a. *Boundary.* The boundary of the Old Village Sign District is depicted on the city's official sign district map. Modifications to the district boundary may be completed using the zoning map amendment process.
- b. *Illumination.* Indirect illumination or reverse lit letters shall be the permitted techniques for lighting all signs within the Old Village Sign District. Other forms of direct illumination are prohibited.
- c. *Wall signs.*
 - 1. Wall signs in the Old Village Sign District shall not project higher than the parapet line of the wall to which the sign is to be affixed or 15 feet as measured from the base of the building wall to which the sign is affixed, whichever is

lower.

2. Wall signs in the Old Village Sign District authorized by a master sign program shall not exceed 20 square feet per business, and all signs shall be visually consistent in location, design, and scale.

d. *Freestanding signs.*

1. The area of a freestanding sign in the Old Village Sign District shall not exceed 30 square feet.
2. Freestanding signs in the Old Village Sign District shall not project higher than six feet, as measured from the average grade at the base of the sign or grade of the nearest roadway, whichever is lower.

(2) *Agricultural Sales District.*

- a. *Boundary.* The Agricultural Sales District shall include all properties zoned agricultural or rural residential.
- b. *On-premises signs.* Independent of the total allowable sign area for an individual property within the agricultural sales district, one or more additional on-premises signs may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions:
 1. Agricultural sales businesses utilizing less than ten acres of land specifically for the growing of agricultural crops for the business are allowed one on-premises sign not to exceed 32 gross square feet of advertising surface;
 2. Agricultural sales businesses utilizing more than ten acres of land but less than 40 acres of land specifically for the growing of agricultural crops for the business are allowed one or two on-premises signs not to exceed 48 gross square feet of advertising surface (with no sign surface exceeding 32 square feet in size);
 3. Agricultural sales businesses utilizing more than 40 acres of land specifically for the growing of agricultural crops for the business are allowed one, two or three on-premises signs not to exceed 64 gross square feet of advertising surface (with no sign surface exceeding 32 square feet in size);
 4. Signs shall be in the form of an allowable sign type in the

underlying zoning district;

5. No dimension of any sign shall exceed 15 feet exclusive of supporting structures; and
6. Any illuminated sign shall be illuminated only during those hours when business is open to the public for conducting business.

c. *Temporary off-premises signs.* Independent of the total allowable sign area for an individual property anywhere within the city, a temporary off-premises sign may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions:

1. *Maximum number.* Every agricultural sales business shall have no more than two off-premises signs at any given time to direct the public to the location of the business.
2. *Timeframe of use.* Temporary off-premises signs may be erected for 45-day time periods no more than four times in any given calendar year. The required temporary sign permit shall stipulate the range of dates for each of the four allowable time periods in any given calendar year.
3. *Size and height.* An off-site agricultural sales advertising sign shall not exceed 50 square feet in area and shall not be taller than ten feet in height.
4. *Setbacks.* Off-premises signs shall be a minimum of 25 feet from all side property lines, and a minimum of 50 feet from other off-premises advertising signs.
5. *Permission required.* Applicants for off-premises signs shall acquire permission from the property owner upon whose land the sign is to be erected.

(3) *I-94 district.*

a. *Boundary.* The I-94 district shall include parcels within the BP, GB, HB, CB, and LB zoning districts which meet one of the following criteria:

1. The property is a buildable lot located to the south of Hudson Boulevard and to the north of Interstate 94; or
2. The property's southern boarder abuts Hudson Boulevard, and is not directly north, either wholly or partially, of a developable parcel lying between Hudson Boulevard and

Interstate 94.

- b. *Permits.* Signs in the I-94 district may be erected in conformance with sign regulations governing the underlying zoning district without additional approvals. Signs proposed to conform to the special standards established for the I-94 district shall only be authorized through approval of an interim use permit.
 - c. *Illumination.* All forms of illumination which conform to the general illumination standards for all signs shall be the permitted within the I-94 sign district.
 - d. *Maximum total square footage of all sign surfaces.* The maximum total square footage of all sign surfaces in the I-94 district shall be dictated by the maximum sign sizes for allowable sign types.
 - e. *Wall signs.* The least restrictive of the following may be used to determine the allowable area for wall signs in the I-94 district:
 - 1. The total area of all wall signs on any wall shall not exceed ten percent of the area of the wall with a maximum allowable area of 80 square feet; or
 - 2. The total area of all wall signs on any wall shall not exceed five percent of the area of the wall with a maximum allowable area of 300 square feet.
 - f. *Freestanding signs.* In lieu of a freestanding sign meeting underlying zoning requirements, a building site within the I-94 district may have one freestanding sign within 50 feet of the property line nearest the interstate provided the sign does not exceed 150 square feet per side (300 square feet total) or 30 feet in height. The base of such a sign shall be at least 75 percent of the width of the sign and be constructed of materials that match those used on the building for which the sign is installed.
 - g. *Window signs.* Window signs in the I-94 district shall not cover more than one-third of the window area.
 - h. *Awning, canopy, and projecting signs.* One awning, canopy or projecting sign, in conformance with the underlying zoning requirements for height, location, and maximum size may also be erected for each business on a building site in the I-94 district.
- (t) *Substitution clause.* The owner of any sign which is otherwise allowed by this subchapter may substitute noncommercial speech signs in lieu of any other commercial speech sign or other noncommercial speech sign. The purpose of

this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech or favoring of any particular noncommercial speech over any other noncommercial speech. This provision prevails over any more specific provision to the contrary.

(u) *Temporary signs.*

(1) *Special events.* Temporary signs may be allowed upon issuance of a permit for on-site advertising of special events such as openings and closings, change in management, sales events, or other special occasions. No more than four temporary sign permits may be issued in any calendar year for a given destination, and each temporary sign permit shall run for 15 days. Temporary signs for special events shall be subject to the following regulations:

- a. Only one on-premises temporary sign shall be allowed per business or event;
- b. Temporary signs shall be in the form, of an allowable sign type in the underlying zoning district; and
- c. Temporary signs shall not exceed 32 square feet in area and shall not be taller than ten feet in height.

(2) *Residential development advertising signs.* Independent of the total allowable sign area for individual properties or residences within a residential zoning district, one or more additional ground signs may be erected within a newly established unified residential area development subject to the following:

a. *Minimum development size.*

1. Projects of less than 25 acres which create ten or more dwelling units are allowed one on-premises ground sign not to exceed 100 square feet of advertising surface;
2. Projects of 26 through 50 acres which create ten or more dwelling units are allowed one or two on-premises ground signs not to exceed 200 aggregate square feet of advertising surface on the project site; and
3. Projects over 50 acres which create ten or more dwelling units are allowed one, two, or three on-premises ground signs not to exceed 200 aggregate square feet of advertising surface on the project site.

b. *Restrictions.*

1. No dimension shall exceed 25 feet exclusive of supporting

structures.

2. The sign shall not remain once 90 percent of the lots in the development have been issued building permits.
3. The permit for the sign must be renewed annually by the council.
4. Only indirect illumination is permitted and shall only occur during those hours when an on-site sales office or model home is open for conducting business.

(3) *Temporary off-premises signs.* Temporary off-premises signs may be erected if all of the following criteria are met:

- a. The destination to which the off-premises sign is advertising is a property for sale;
- b. An agent must be present at the destination property for sale, and the property must be open for viewing;
- c. The sign must be located on private property, and permission must have been obtained from the private property owner to erect the temporary sign;
- d. The temporary off-premises sign shall not exceed six square feet in size; and
- e. The temporary off-premises sign shall not cause the total square feet of signage on a property to exceed the allowed maximum in the underlying zoning district.

(v) *Warning signs.* Warning signs which do not exceed the minimum statutory requirements for size and number may be posted, and shall not count towards the overall permitted signage on a given property. Increases in either size or number over minimum statutory requirements shall count against the overall permitted signage on a given property unless authorized by conditional use permit which finds sufficient evidence that larger or more frequent signage is necessary to provide the intended warning.

(Code 2007, § 151.117; Ord. No. 08-015, 7-21-2009)

105.08.210 Specific Regulations By Zoning District

(a) *Sign setbacks.* Signs shall conform to the setback regulations listed in Table 1 for the zoning district in which the signs are located except as may be specifically exempted or restricted in LEC 105.08.200 and this section.

Table 1: Setbacks by Zoning District ^[1]

	<i>Base Zoning Districts</i>													
	<i>A</i>	<i>R R</i>	<i>R 1</i>	<i>R 2</i>	<i>R3</i>	<i>R4</i>	<i>RE</i>	<i>OP</i>	<i>GB</i>	<i>HB</i>	<i>CB</i>	<i>LB</i>	<i>BP</i> ^[2]	<i>PF</i>
Front lot line	5	5	5	5	5	5	5	5	1	1	1	1	1	5
Side lot line	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Rear lot line	5	5	5	5	5	5	5	5	10	10	10	10	10	5
Vehicular access	5	5	5	5	5	5	5	5	15	15	15	15	15	5
^[1] Awning/canopy signs, mural signs, projecting signs, wall signs, or window signs proposed to be located on a building legally nonconforming to setback requirements shall be permitted without a variance provided all other zoning code provisions are met.														
^[2] Signs within business parks shall also adhere to the requirements of a master sign program approved by the city council in conjunction with the business park establishment.														

- (b) *Allowable sign area.* The maximum allowable sign area for an individual sign and for total site signage is listed in Table 2 by zoning district. These maximums shall apply except as may be specifically exempted or restricted in LEC 105.08.200 and LEC 105.08.210.

Table 2: Allowable Sign Area by Zoning District

	<i>Maximum Sign Area in Square Feet (Per Surface) By Sign Type ^[1]</i>								
<i>Districts</i>	<i>Awning/Canopy Sign</i>	<i>Ground Sign ^[2]</i>	<i>Monument Sign ^[2]</i>	<i>Mural Sign</i>	<i>Pole Sign ^[2]</i>	<i>Projecting Sign</i>	<i>Wall Sign</i>	<i>Window Sign</i>	<i>Maximum Total Square Footage of All Sign Surfaces</i>
A, RR, R1, R2, RE,		6		C	6		6	6	12 square feet

OP [3]									
R3 and R4 [3]		12		C	12		1 2	12	24 square feet
GB, HB, CB, LB, BP, and PF	[4]	30	45	C	30	6	[5]	No m ax	1.0 square foot per lineal foot of building parallel or substantially parallel to public road frontage (excluding alleys) [6]
[1] Sign types with empty cells are prohibited in the applicable zoning districts. Sign types with a maximum sign area of "C" shall require a conditional use permit.									
[2] Ground, monument, or pole signs, where permitted, shall be limited to one per commercial establishment.									
[3] All sign types in residential districts shall have no more than two surfaces.									
[4] The gross surface of an awning or canopy sign shall not exceed 30 percent of the gross surface area of the smallest face of the awning or canopy of which the sign is to be affixed.									
[5] On any wall parallel or substantially parallel to a public roadway, the gross surface area of a wall sign shall not exceed 0.75 square feet for each lineal foot of building facing the applicable roadway. For walls not facing a public roadway, the maximum wall sign size shall be 12 square feet.									
[6] Open sales lots or other approved uses on lots without a building shall be limited to 30 square feet of total sign surfaces.									

- (c) *Freestanding sign height.* The maximum allowable sign height for a freestanding sign is listed in Table 3 by zoning district. These maximums shall apply except as may be specifically exempted or restricted in LEC 105.08.200 and LEC 105.08.210.

Table 3: Allowable Freestanding Sign Height in Feet by Zoning District

	<i>Base Zoning Districts</i>														
	<i>Residential Districts</i>									<i>Business Districts</i>					
	<i>A</i>	<i>R R</i>	<i>R 1</i>	<i>R 2</i>	<i>R 3</i>	<i>R 4</i>	<i>R E</i>	<i>O P</i>	<i>G B</i>	<i>H B</i>	<i>C B</i>	<i>L B</i>	<i>B P</i>	<i>PF</i>	
Allowable height in feet	5	5	5	5	8	8	5	5	20	20	20	20	20	20	

(Code 2007, § 151.118; Ord. No. 08-015, 7-21-2009)

105.08.220 Sign Variances

Variances from sign provisions shall be administered in accordance with the zoning code in LEC 105.12, and shall be subject to the following additional requirements:

- (a) The signs shall be compatible with the character of the adjacent buildings and with the character of the adjacent neighborhood;
- (b) The signs shall have good scale and proportion in the visual relationship to buildings and adjacent areas;
- (c) The material, size, color, lettering, location, and arrangement of the signs is an integral part of the site and building design; and/or
- (d) The colors, materials, and lighting of the signs are restrained and harmonious, as interpreted by the city planner.

(Code 2007, § 151.119; Ord. No. 08-015, 7-21-2009)

105.08-VIII MANUFACTURED HOME PARK

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105.08.230 Purpose

The purpose of LEC 105.08.230 et seq., is to promote health, safety, order, convenience, and general welfare by enforcing minimum standards for manufactured home parks, the location and use of the homes and the design, construction, alteration, and arrangement of homes on the lots, authorizing the inspection of manufactured home parks, and fixing penalties for violations.

(Code 1997, § 545.01; Code 2007, § 151.135)

105.08.240 Scope

- (a) *Lot with occupied dwelling.* No person shall park or occupy a manufactured home on the premises of a lot with any occupied dwelling.
- (b) *Requirements.* No person shall permit anyone to live or reside temporarily or permanently on land owned or rented by the person except in a structure meeting the requirements of the building and zoning ordinances of this city.
- (c) *Exemptions.*
 - (1) The provisions of LEC 105.08.230 et seq., shall not prohibit temporary use of a manufactured home as a single-family residence, during a period not to exceed ten months, while the family occupying the manufactured home is constructing a residence on the lot on which the manufactured home is located. The owner of the lot shall first secure a building permit for the permanent residence on the lot and a permit for temporary use of a manufactured home as provided in LEC 105.08.230 et seq. The building official may issue a permit for temporary use of a manufactured home for a period not to exceed ten months from the date of issuing of the permit for the permanent residence, provided the owner shall enter into an agreement with the city, in a form satisfactory to the city attorney, agreeing to remove the manufactured home from the lot no later than ten months from the date of issuance of the permit for the permanent home. The agreement shall provide that, in the event the owner fails to remove the manufactured home in accordance with the provisions of the owner's permit, the city may cause the manufactured home to be removed and stored in a suitable place at the owner's expense. The owner's performance of the agreement shall be secured by a bond or a cash deposit filed with the administrator in the amount of \$1,000.00.
 - (2) Nothing in LEC 105.08.230 et seq., shall prohibit the use of manufactured homes as provided in the zoning code in LEC 105.12.

(Code 1997, § 545.02; Code 2007, § 151.136)

105.08.250 Definitions

Unless specifically defined within LEC 105.08.230 et seq., common definitions, words, and phrases used in LEC 105.08.230 et seq. shall be interpreted so as to give them the same meaning throughout this Code, and are found in LEC 1.08.

(Code 1997, § 545.03; Code 2007, § 151.137)

105.08.260 Permits

No person shall attempt to establish, maintain, or operate a manufactured home park within the city without first obtaining a permit from the council.

(Code 1997, § 545.04; Code 2007, § 151.138)

105.08.270 Applications

- (a) No permit for a park shall be issued by the council until and unless the person requesting the permit shall first apply to the city administrator on the form of application to be provided by the administrator, and shall submit with the application all information and data specified in LEC 105.08.230 et seq.
- (b) The application shall be in writing, signed by the applicant, and shall include the following:
 - (1) Name and address of applicant;
 - (2) Location and legal description of the manufactured home park;
 - (3) Complete engineering plans and specifications of the proposed park, including, but not limited to, the following:
 - a. The area and dimensions of the tract of land;
 - b. Two-foot topography sketch of the land;
 - c. The number, location, and size of all manufactured home lots;
 - d. The location and width of roadways and walkways;
 - e. The location of water and sewer lines and reset pipes;
 - f. Plans and specifications of the water supply and refuse and sewage disposal facilities;
 - g. Plans and specifications of all buildings constructed or to be constructed within the manufactured home park;
 - h. The location and details of lighting and electrical systems; and
 - i. A landscaping plan approved by the city, and that park ground area and recreation equipment be shown on the landscaping plan, as provided by state statute and LEC 105.08.300.
 - (4) A plan for the warning and sheltering or the safe evacuation to a safe place of shelter of the residents of the park in times of severe weather conditions, such as tornadoes, high winds, and floods. The shelter or evacuation plan shall be developed with the assistance and approval of the city and shall be posted at conspicuous locations throughout the park. Residents of the park must also be given the option of constructing a shelter under or near their home, approved by the city and park owners;

and

- (5) Further information as the council may request to enable the council to determine if the proposed park will comply with the legal requirements and will ensure the protection of the best interests of the city and its citizens as to health, welfare, and public safety. Twenty copies of the application, and all accompanying plans and specifications, shall be filed. The council shall make investigations of the applicant, the plans, the site, and any other related subjects as it may deem necessary and proper. For the purposes of this investigation, the council may use the services of regular city offices and employees or the council may employ the service of outside consultants and experts as it may choose. This application shall be required for all areas not yet occupied by manufactured homes prior to the effective date of the ordinance codified in this section.

(Code 1997, § 545.05; Code 2007, § 151.139)

105.08.280 Fees

Application fees shall be set from time to time by resolution of the city council.

(Code 1997, § 545.06; Code 2007, § 151.140)

105.08.290 Hearing

The council shall provide for a public hearing before granting a park permit. Notice of the hearing shall be made by publication in the official city newspaper. Publication shall be made at least ten days prior to the date of hearing. All property owners within 350 feet shall also be notified by mail.

(Code 1997, § 545.07; Code 2007, § 151.141)

105.08.300 Design Standards

A park shall conform to the following requirements:

- (a) *Location.* The park shall be located on a well-drained site properly graded to ensure prompt drainage of surface waters and stormwaters and to ensure freedom from stagnant pools of water. Surface waters shall be disposed of according to a plan approved by the city. The park shall be serviced by a central sanitary sewer system and a central water system approved by the state department of health, and by the council.
- (b) *Lot size.* Individual lots shall be provided consisting of a minimum of 6,000 square feet each, and shall be at least 60 feet wide, which size lot allows for a maximum length manufactured home of 55 feet. Larger homes will require longer

lots to comply with subsection (c) of this section, and other requirements of LEC 105.08.230 et seq.

- (c) *Clearance between homes.* Manufactured homes shall be placed upon lots so that there shall be at least a 20-foot clearance between homes and 20 feet between the front of the home and the front lot line and 25 feet between the rear of the home and the rear lot line.
- (d) *Location to public road.* No manufactured home shall be located within 125 feet of the existing or planned-for edge of the traveled part of a public road. Under no conditions shall a home be located closer than 30 feet to a public road right-of-way line.
- (e) *Internal streets.* Internal private streets within the park shall have a driving surface no less than 32 feet in width and shall have unobstructed access to a public street, road, or alley, shall meet city engineering design standards, and be posted with a 20 mph speed limit.
- (f) *Walkways.* Walkways shall be no less than two feet in width.
- (g) *Driveways and sidewalks.* All driveways and sidewalks shall be hard surfaced and shall be no closer than five feet from park boundary.
- (h) *Utility building.* Each park shall have the utility buildings as are required by state law.
- (i) *Landscaping.*
 - (1) Parks shall be landscaped as the council shall approve and direct in the specifications established in the permit.
 - (2) The landscaping may be ordered by the council as appears necessary and proper to cause the appearance of the park to harmonize with the general appearance of the surrounding neighborhood and to provide borderline screening if deemed advisable.
- (j) *Electric.* Electrical service shall be provided for each manufactured home, with service to be at least 110 volt, 100 ampere capacity.
- (k) *Lot markings.* The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers, or other suitable means and the manufactured home lot limits shall be the same as shown on the accepted plans.
- (l) *Parking.* Each lot shall have parking space for at least two automobiles.
- (m) *Open space.* Public open space shall be provided as set forth in this title.
- (n) *Lights.* A lighting system for the park grounds approved by the council shall be installed and lighting provided from sunset to sunrise.

- (o) *Hydrants*. Fire hydrants shall be installed and connected as necessary.
- (p) *Foundations*. All dwellings shall be placed on a permanent foundation or anchored to resist overturning, uplift, and sliding in compliance with the state building code.

(Code 1997, § 545.08; Code 2007, § 151.142)

105.08.310 Office

Each park shall have an office for the use of the operator distinctly marked "office" and the marking shall be illuminated during all hours of darkness.

(Code 1997, § 545.09; Code 2007, § 151.143)

105.08.320 Child-Free Area

Each park plan may provide for an area of lots within the park reserved for residents without minor children, not to exceed one-third of the individual lots.

(Code 1997, § 545.10; Code 2007, § 151.144)

105.08.330 Building Permits

A building permit shall be required for each manufactured home brought into a park and any alterations to a structure in a manufactured home park.

(Code 1997, § 545.11; Code 2007, § 151.145)

105.08.340 Operator

The operator or duly authorized agent shall be in attendance at the park at all times and shall keep the park in a clean, orderly, sanitary condition.

(Code 1997, § 545.12; Code 2007, § 151.146)

105.08.350 Violations

Failure to comply with any provision or requirement of LEC 105.08.230 et seq. or with any provision or requirement imposed upon the park or owner or operator by the terms of the permit or the terms of any contract agreement or stipulation entered into or imposed by the council as part of or in connection with the permit shall be cause for revocation of the park permit by the council after a ten-day mailed notice of violation and time and place of hearing to the owner and operator and a hearing by the council. Compliance with the terms of LEC 105.08.230 et seq. shall be a condition precedent to the issuance of a state license and shall run with the license so as to be an essential part of the license. Upon revocation of a permit by the council, no further occupancy of the

manufactured homes in the park shall be allowed. However, the council may allow a reasonable time for termination of occupancy. This section shall apply in all respects to any violation of provisions previously in effect that continue to control existing occupied park areas.

(Code 1997, § 545.13; Code 2007, § 151.147)

105.08.360 Inspections

- (a) *Compliance with ordinance.* The building inspector is authorized and directed to make inspections as are necessary to determine satisfactory compliance with LEC 105.08.230 et seq., including the power to enter at reasonable times upon any private or public property for inspections.
- (b) *Registration record.* The building inspector, the county sheriff, or their duly authorized representatives, shall have the power to inspect the register containing a record of all residents of the manufactured home park.
- (c) *Access.* It shall be the duty of the park management to give the building inspector free access to all lots at a reasonable time for the purpose of inspection.
- (d) *Repairs.* It shall be the duty of every occupant of a manufactured home park to give the owner of the park or owner's agent or employee access to any part of the manufactured home park at reasonable times for the purpose of making repairs or alterations that are necessary to effect compliance with LEC 105.08.230 et seq.

(Code 1997, § 545.14; Code 2007, § 151.148)

105.08.370 Floodplain Management

- (a) *Requirements.* New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by LEC 100.00.090.
- (b) *Existing parks in floodplain districts.* Manufactured homes in existing manufactured home parks that are located in floodplain districts are nonconforming uses and may be replaced only if in compliance with the following conditions:
 - (1) The manufactured home lies in the flood fringe district;
 - (2) The manufactured home is anchored with tie-downs that comply with requirements of state statutes;
 - (3) The manufactured home owner or renter is notified that the manufactured home site lies in the floodplain and may be subject to flooding; and
 - (4) The manufactured home park owner develops a flood emergency plan

consistent with the time available after a flood warning. The plan shall be filed with and approved by the council.

(Code 1997, § 545.15; Code 2007, § 151.149)

105.08.380 Storm Shelters

- (a) Manufactured home park owners shall adopt regulations relating to the use and maintenance of storm shelters. A copy of the regulations or any amendments thereto shall be kept on file with the administrator, the civil defense director, the fire chief, and the county sheriffs department.
- (b) The regulations shall address the following minimum concerns:
 - (1) *Maintenance of shelters.* The regulations shall include a routine maintenance schedule in order to control vandalism and maintain the shelters in a sanitary and safe manner. During the storm season, shelters shall be checked at least once during each business day by a representative of the manufactured home park owners. As used herein, the term "storm season" means the period between April 1 and September 15 of each year.
 - (2) *Shelter access map.* An access map illustrating the most convenient route from an individual manufactured home to a designated storm shelter shall be disseminated in the following manner:
 - a. A copy shall be delivered to each manufactured home owner within the park.
 - b. A copy shall be included with the park move-in information packets for each new tenant.
 - c. Copies shall be posted on any manufactured home park community bulletin board.
 - d. A copy shall be posted in the club house of the golf facility at the manufactured home park.
 - e. A copy shall be available at the manufactured home park office.
 - (3) *Storm shelter drills.* Storm shelter drills shall be conducted at a reasonable time in the spring of each year prior to the storm season. The city civil defense director and the fire chief shall be given 72 hours advance notice of any proposed storm shelter drill. The park owner shall include within their regulations relating to storm shelter drills any recommendations of the civil defense director and/or fire chief.
 - (4) *Periodic review.* On an annual basis, park owners shall solicit comments

from park residents and the administrator regarding the effectiveness of current storm shelter regulations or proposals for changes to the regulations.

(Code 1997, § 545.16; Code 2007, § 151.150)

105.08-IX MANUFACTURED HOME PARK CLOSINGS

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105.08.390 Purpose And Intent

- (a) Based upon the difficulty and expense of relocating manufactured homes and the availability of manufactured home parks within a reasonable distance of the city, the council finds that the public health, safety, and welfare of city residents will be promoted by adopting regulations relating to the payment of relocation costs and compensation in the event of the closing of all or a portion of a manufactured home park.
- (b) The purpose of the regulation is to define the regulations which will apply to manufactured home park closings and is adopted pursuant to the authority granted by M.S.A. § 327C.095, as it may be amended from time to time.

(Code 1997, § 550.01; Code 2007, § 151.165)

105.08.400 Notice Of Closing

At least nine months prior to the anticipated date for the full or partial park closing, the park owner shall:

- (a) Personally serve a copy of the closure statement on at least one adult resident of each manufactured home within the manufactured home park; and
- (b) Personally serve the city administrator with a copy of the closure statement, a current resident list, and a plan for funding the relocation costs and compensation which will be required as a condition of closing.

(Code 1997, § 550.03; Code 2007, § 151.166)

105.08.410 Public Hearing

- (a) The city administrator shall forward the closure statement to the planning commission for comment.
- (b) Upon review by the planning commission, the city administrator shall schedule a public hearing before the council preceded by ten-days mailed notice to people whose names appear on the resident list.
- (c) Failure to notify all park residents shall not invalidate the public hearing.
- (d) At the public hearing, the council shall review the closure statement, receive comments, and evaluate the impact of the manufactured home park closing on the park residents, the city's resources, and its comprehensive plan.

(Code 1997, § 550.04; Code 2007, § 151.167)

105.08.420 Conditions Of Closing

As a condition of closing, the park owner shall pay relocation costs to eligible park residents or the park purchaser shall pay compensation to eligible park residents as provided subsequently in LEC 105.08.400 et seq. Development and/or building permits shall not be issued for subsequent uses of the manufactured home park property until the park owner has complied with the city's development regulations and until the park owner and/or park purchaser have made arrangements, acceptable to the city, for funding relocation costs and compensation required by LEC 105.08.400 et seq.

(Code 1997, § 550.05; Code 2007, § 151.168)

105.08.430 Park Resident Statement

Within 90 days of receipt of a closure notice, a park resident shall provide the park owner with a written statement of relocation costs or, in the alternative, a written statement that the park resident cannot relocate the park resident's manufactured home to another manufactured home park within a 25-mile radius and the reasons for the conclusion.

(Code 1997, § 550.06; Code 2007, § 151.169)

105.08.440 Election To Receive Relocation Costs

- (a) *Single section manufactured homes.* If a single section manufactured home can be relocated to another manufactured home park within a 25-mile radius, the park owner shall pay eligible park residents' relocation costs as defined in LEC 105.08.400 et seq., or, an amount equal to \$3,500.00, whichever is less.
- (b) *Double section manufactured homes.* If a double section manufactured home can

be relocated to another manufactured home park within a 25-mile radius, the park owner shall pay eligible park residents' relocation costs as defined in LEC 105.08.400 et seq., or an amount equal to \$5,000.00, whichever is less.

- (c) *Relocation payments.* The park owner shall make relocation payments directly to contractors providing the relocation service, but, upon proof of payment of the relocation costs by an eligible park resident, shall reimburse the eligible park resident directly for the relocation costs. The park owner shall be entitled to receive adequate documentation of relocation costs, including costs of proposals, invoices, estimates, and contracts for relocation services.
- (d) *Maximum relocation payment.* The maximum relocation payment specified in subsections (a) and (b) of this section shall be adjusted on January 1 of each year commencing on January 1, 1992, based upon the change in the consumer price index, Minneapolis-St. Paul, for all urban consumers (CPI-U) as published in the Bureau of Labor Statistics of the United States Department of Labor. The amount of the adjustment shall be equal to the percentage of change in the CPI-U on the date of adjustment over the CPI-U in effect on January 1 of the preceding year.

(Code 1997, § 550.07; Code 2007, § 151.170)

105.08.450 Election To Receive Compensation

If a manufactured home cannot be relocated to another manufactured home park within a 25-mile radius, an eligible park resident shall elect one of the following options by giving written notice to the park owner who shall forward the notice to the park purchaser, and the compensation payment provided for in LEC 105.08.400 et seq. shall be paid within 30 days prior to the date of the closing on the sale of the manufactured home park.

- (a) *Retaining title.* The eligible park resident may elect to receive compensation in an amount equal to the average relocation cost provided to eligible park residents for the relocation of similar housing, in which event the park purchaser shall pay the compensation and the eligible park resident shall retain title to the manufactured home and be responsible for its prompt removal from the manufactured home park; or
- (b) *Title transfer.* The eligible park resident may elect to receive compensation in an amount equal to the estimated fair market value of the manufactured home as determined by an independent appraiser experienced in manufactured home appraisals. The appraisal shall be made no earlier than 60 days prior to the closing of the park or its conversion to another use in order to ensure that the current fair market value of the eligible park residents' manufactured home is appraised. The park purchaser and the eligible park resident shall each pay one-half of the cost of the appraisal. The park purchaser shall pay the compensation to the eligible park resident upon transfer of clear title to the manufactured home.

(Code 1997, § 550.08; Code 2007, § 151.171; Ord. No. 97-45, 6-28-1999)

105.08.460 General Requirements

- (a) *Vacation of manufactured home from park.* Displaced park residents cannot be required to vacate the manufactured home park until 60 days after conclusion of the public hearing before the council.
- (b) *Partial closure.* If there is a partial closure of the manufactured home park and other lots remain available within the same manufactured home park, the park owner must allow displaced residents an opportunity to relocate within the manufactured home park unless the displaced resident's manufactured home, because of its size, is not compatible with the available lot.

(Code 1997, § 550.09; Code 2007, § 151.172)

105.08.470 Limitation Of Relocation Costs And Compensation

The total amount of relocation cost and compensation to be paid to eligible park residents shall not exceed 20 percent of the estimated market value of the manufactured home park, as stated in the property tax statement for the year in which the closure statement is served on the city administrator. If the total of the relocation cost and compensation payable to eligible park residents exceeds this limitation, the relocation costs and compensation payable to each eligible park resident shall be decreased proportionately so that the total of the relocation costs and compensation does not exceed the limitation stated in this section.

(Code 1997, § 550.10; Code 2007, § 151.173)

105.08.480 Exhibit A: Official Sign District Map

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ARTICLE I GENERAL PROVISIONS

[105.12.010 Purpose](#)
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105.12.010 Purpose

This chapter is adopted for the purposes of:

- (a) Protecting the public health, safety, comfort, convenience, and general welfare;
- (b) Implementing the city comprehensive land use plan;
- (c) Promoting orderly development of the residential, commercial, industrial, recreational and public areas;
- (d) Conserving the natural and scenic beauty and attractiveness of the city;
- (e) Conserving natural resources in the city;
- (f) Minimizing environmental pollution; and

- (g) Conserving energy through the siting of buildings and encouragement of solar and earth-sheltered structures where appropriate.

(Code 2007, § 154.002; Ord. No. 2012-062, 9-18-2012)

105.12.020 Statutory Authorization

This chapter is adopted pursuant to the authorization contained in M.S.A. ch. 462, or successor statutes.

(Code 2007, § 154.003; Ord. No. 2012-062, 9-18-2012)

105.12.030 Jurisdiction

This chapter shall be applicable to all lands and waters within the corporate limits of Lake Elmo, Minnesota.

(Code 2007, § 154.004; Ord. No. 2012-062, 9-18-2012)

105.12.040 Premature Development And Subdivision Prohibited

Any development, redevelopment, plat, or other subdivision of property may be denied by the city council if it is deemed by the city council to be premature for development pursuant to the criteria listed in LEC 103.00.025. The burden of proof shall be on the applicant, property owner, or subdivider to demonstrate to the city council that the proposed development, redevelopment, plat, or subdivision is not premature for development or redevelopment.

(Ord. No. 08-247(1), § 7(134.0045), 2021)

105.12.045 Compliance Required

Except as this chapter specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose in any manner which is not in conformity with this chapter.

(Code 2007, § 154.005; Ord. No. 2012-062, 9-18-2012)

105.12.050 Rules Of Construction And Interpretation

The following rules of construction and interpretation apply to this chapter:

- (a) *Minimum requirements.* In their interpretation and application, the provisions of this chapter shall be held to the minimum requirements for the promotion of the public health, safety and welfare.
- (b) *Conflict.* Where the conditions imposed by any provision of this chapter are either

more restrictive or less restrictive than comparable conditions imposed by any other law, chapter, statute, resolutions or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(Code 2007, § 154.006; Ord. No. 2012-062, 9-18-2012)

105.12.060 Severability And Validity

It is hereby declared to be the intention that the several provisions of this chapter are severable in accordance with the following:

Validity. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building, or structure, such judgment shall not affect other property, buildings or structures.

(Code 2007, § 154.007; Ord. No. 2012-062, 9-18-2012)

105.12.070 Effective Date

This chapter shall be in full force and effect from and after the date of the passage and approval by the city council of the ordinance from which it is derived.

(Code 2007, § 154.008; Ord. No. 2012-062, 9-18-2012)

ARTICLE II DEFINITIONS

[105.12.080 Introduction And Purpose](#)

[105.12.090 Interpretation Of Certain Terms](#)

[105.12.100 General Definitions](#)

[105.12.110 Zoning Use Types And Classifications](#)

105.12.080 Introduction And Purpose

The purpose of this article is to define general terms used in this zoning ordinance, to establish a classification system for land uses and a consistent set of terms defining uses permitted within various zoning districts, and to establish the rules for interpretation of language in this chapter.

(Code 2007, § 154.009; Ord. No. 2012-062, 9-18-2012)

105.12.090 Interpretation Of Certain Terms

In the construction of the zoning ordinance codified in this chapter, the following rules shall be observed and applied, except where the context clearly indicates otherwise:

- (a) The term "building" includes the term "structure."

- (b) The terms "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (c) The term "lot" shall mean zoning lot unless otherwise specified in this chapter.
- (d) The terms "lot," "parcel," or "premises" may be used interchangeably.
- (e) All stated and measured distances shall be taken to the nearest integral foot. If a fraction is one-half foot or less, the integral foot next below shall be taken.

(Code 2007, § 154.010; Ord. No. 2012-062, 9-18-2012)

105.12.100 General Definitions

Unless specifically defined in this chapter, common definitions, words and phrases used in this chapter shall be interpreted as to give them the same meaning as they have in common usage throughout this Code and are found in LEC 1.08.

(Code 2007, § 154.011; Ord. No. 2012-062, 9-18-2012)

105.12.110 Zoning Use Types And Classifications

(a) *Rules of interpretation for zoning use types and classifications.*

- (1) *Purpose of use types.* The purpose of the use types is to establish a classification system for land uses and a consistent set of terms defining uses permitted within various zoning districts. The use types section also facilitates the process of determining the applicable use type of any activity not clearly within any defined use type.
- (2) *Interpretation.* In the event of any question as to the appropriate use type of any existing or proposed use or activity, the planning director shall have the authority to determine the appropriate use type. In making such a determination, the planning director shall consider the operational and physical characteristics of the use in question and shall consider the classification contained in the most recent edition of the Standard Industrial Classification Manual published by the U.S. Office of Management and Budget. In addition, the planning director shall consider the specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists. The planning director may also determine that a proposed use or activity is sufficiently different from any use type listed below and will require an amendment to the text of this chapter.
- (3) *Determinations in writing.* The planning director shall make such determinations of appropriate use types in writing, which shall include an explanation of the reasons for the determination.

- (4) *Appeal*. A determination of the planning director may be appealed to the board of adjustment pursuant to the procedures for administrative appeals outlined in LEC 3.08.100.

(b) *Use types and classifications*.

(1) *Residential and related uses*.

a. *Family living*.

Live-work unit means a dwelling unit in combination with a shop, office, studio, or other work space within the same unit, where the resident occupant both lives and works.

Manufactured home park means a development on a site under a single ownership which consists of two or more spaces for the placement of manufactured homes for dwelling or sleeping purposes, regardless of whether or not a fee is charged for the utilization of such space.

Multifamily residential means a building containing three or more dwelling units. The term "multifamily residential" includes cooperative apartments and condominiums, but not condominium-hotels. (See condominium and condominium-hotel under LEC 1.08.)

Secondary dwelling means a residential dwelling unit, but not a manufactured home, located on the same lot as a single-family dwelling unit, either within the principal structure, above a detached garage, or within a detached structure.

Single-family, attached, means a building containing one dwelling unit attached to another building containing only one dwelling unit, with each building on a separate lot.

Single-family, detached, means a building containing only one dwelling unit, surrounded by landscape area or yards on all sides.

Two-family or duplex means a building on a single lot or adjacent lots containing two dwelling units, either side-by-side or stacked vertically.

b. *Group living*.

Congregate housing means a dwelling providing shelter and services for the elderly, which may include meals, housekeeping,

and personal care assistance and minor medical services, but not intermediate, long-term, or extended nursing care for residents.

Correctional facilities means a public or privately-operated use providing housing and care for individuals legally confined, designed to isolate those individuals from a surrounding community.

Group home means a residence shared by six or fewer handicapped persons in addition to resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential.

Group residential facility means a licensed public or private establishment, which, for gain or otherwise, regularly provides one or more dependents with 24-hour a day substitute for the care, food, lodging, training, education, supervision, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the dependent's own home. The term "group residential facility" includes, but is not limited, to state institutions under the control of the commissioner of public welfare, foster homes, maternity shelters, group homes, as defined herein, with seven or more residents, schools for handicapped children, and homes for battered children or battered spouses.

Halfway house means an establishment providing accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol, drug addiction or other similar disorders, or to persons re-entering society after being released from a correctional facility or other institution.

Semi-transient accommodations means and includes boardinghouses, roominghouses, fraternity and sorority houses, or lodging rooms, as defined by this chapter. Semi-transient accommodations do not include condominium-hotels, as defined in LEC 1.08.

(2) *Public and civic uses.*

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbarium's, crematories, mausoleums, and mortuaries when operated in conjunction

with and within the boundaries of such cemetery.

Colleges and universities means institutions of higher learning which offer courses of general or specialized study leading to a degree or certificate. They are certified by the state board of higher education or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks. Accessory uses include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, and support commercial. Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, and seminaries.

Community services means establishments of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities may incorporate membership provisions, and are open to the general public to join at any time (for instance, any senior citizen could join a senior center). The use may also provide special counseling, education, or training of a public, non-profit, or charitable nature. Accessory uses may include offices, meeting areas, food preparation areas, parking, health and therapy areas, day care uses, and athletic facilities. Examples include libraries, museums, senior centers, community centers, social service facilities, early childhood learning facilities, and other special educational services.

Day care center means any facility operated for the purpose of providing care, protection, and guidance to 14 or more individuals during only part of a 24-hour day. The term "day care center" includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

Public assembly means facilities owned and operated by a public or quasi-public agency accommodating public assembly for non-recreation purposes. Typical uses include auditoriums, convention facilities, exhibition facilities, convention halls, or armories.

Religious institutions means establishments that are intended to primarily provide meeting areas for religious activities. Accessory uses include Sunday school facilities, parking, caretaker's housing, and group living facilities such as convents. Examples include churches, temples, synagogues, and mosques.

Schools, public and private, means establishments at the primary,

elementary, middle, junior high, or high school level that provide state-mandated basic education. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before or after school day care. Examples include public and private day-time schools, boarding schools, and military academies.

Exemptions:

- a. Preschools are classified as day care facilities; and
- b. Business and trade schools are classified as educational services.

(3) *Services.*

Business center means a building or group of buildings planned, constructed, and managed as a total entity, with common on-site parking for a group of commercial service establishments, with office uses also permitted. In the central business district, the requirement for common on-site parking need not be met in order to classify a development as a business center.

Business services means establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, building maintenance, office equipment rental and leasing, photo finishing, business supply services, and computer programming/data processing services.

Communication services means establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephone mechanisms. Excluded from this use type are facilities classified as essential services or broadcasting and communications towers. Typical uses include television studios, telecommunications service centers, telegraph service offices or film and sound recording facilities.

Educational services means establishments engaged in furnishing specialized academic or technical courses, normally on a fee basis, such as vocational or correspondence schools, barber college, data processing schools, or secretarial schools, along with non-degree granting schools such as post-secondary colleges and universities, martial arts, music, art, ceramic, and dramatic, schools, and dance instruction.

Financial institution means provision of financial and banking services to consumers or clients. Walk-in and drive-in services are generally

provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions, lending establishments, and drive-up automatic teller machines (ATMs).

Funeral home means establishments engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

Lodging. See *Transient accommodations*.

Medical facilities means establishments engaged in providing diagnostic services, extensive medical treatment (including surgical services), and other hospital services, as well as continuous nursing service, including general medical and surgical hospitals, specialty hospitals, medical laboratories, bio-medical research and development, outpatient care facilities, medical schools and associated dormitories, medical appliance sales, and similar uses, but not including animal hospitals.

Membership organization means organizations operating on a membership basis for the promotion of the interests of the members included such uses as trade associations, business associations, professional membership organizations, labor unions, civic or fraternal organizations, but not including churches, hospitals, golf and country clubs, or credit unions.

Nursing and personal care means establishments primarily engaged in providing intermediate or long-term nursing and health related care to individuals, typically classified as nursing homes.

Offices means a building or portion of a building used for office purposes by a business, service, professional, or institutional establishment, including medical offices or clinics, studios for those involved in art, sculpture, music, and the like, and all other establishments similar in character.

Personal services means establishments primarily engaged in providing services involving the care of a person or his apparel, such as barber shops, clothing rental, salons and health clubs, photographic studios, cleaning and garment services (but not including power laundries or dry cleaning plants) or coin-operated laundries.

Repair and maintenance shop means establishments engaged in miscellaneous repair services, primarily of household-oriented products such as radios, televisions, washers and dryers, furniture (including re-upholstery), small engine repair, bicycles, or locksmiths.

Self-service storage facility means an establishment designed and utilized for the purpose of renting or leasing individual storage spaces to tenants who have sole private access to such space for storing personal property.

Trade shop means any lot, land, building, or structure that serves as the headquarters for contractors involved in specialized activities such as plumbing, painting, plastering, masonry, carpentry, roofing, well drilling, landscaping and the like, where tools, equipment and materials used in the business are stored. The category also includes establishments involved in specialized trades such as sheet metal, sign painting, drapers, and exterminators.

Transient accommodations, lodging, means establishments in which lodging is provided and offered to the public for compensation, and which is open primarily to transient guests, as distinguished from semi-transient boarding or rooming facilities. Typical uses include hotels, motels, and inns. Meeting and restaurant facilities may be included accessory to this use type. Condominium-hotels shall be considered as a type of transient accommodation.

Transportation services means establishments furnishing services related to the arrangement of persons and goods movements, such as freight forwarding, parking services or the rental/leasing of automobiles or two-axle trucks.

Veterinary service means establishments engaged in the practice of veterinary medicine, dentistry or surgery, along with those providing animal related services such as kennels, grooming, or breeding services.

(4) *Food service.*

Drinking and entertainment means establishments primarily engaged in the selling of drinks for consumption on the premises, where entertainment may be provided and the incidental sale of prepared food for consumption on the premises is permitted. These establishments may often charge a fee or admission charge for the entertainment provided. Included in this category are bars, beer gardens, discotheques, nightclubs, taverns, and dance halls.

Drive-in restaurant means an establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery, or table service, served in disposable containers at a counter and a drive-up or drive through service facility or which offers curbside service.

Fast food restaurant means an establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery, or table service, served in disposable containers at a counter. This use type does not employ a drive-up or drive-through service facility, and does not offer curb service.

Standard restaurant means an establishment whose principal business is the sale of food and/or beverage to customers in a ready to consume state, and whose principal method of operation includes one or both of the following:

- a. Customers, normally provided with an individual menu, are served their food and beverage by restaurant employees at the same table or counter at which the food and/or beverage are consumed;
- b. A cafeteria-type operation where food and beverage generally are consumed within the restaurant building.

(5) *Sales of merchandise.*

Garden center (retail agriculture) means establishments or places of business primarily engaged in retail or wholesale (bulk) sale, from the premises, of trees, shrubs, seeds, fertilizers, pesticides, and plant materials primarily for agricultural, residential, and commercial consumers. Such establishments typically sell products purchased from others, but may sell some material which they grow themselves. Typical uses include nurseries, retail greenhouses, plant stores, and lawn and garden centers.

Neighborhood convenience store means establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. Convenience stores shall not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.

Retail trade means establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. These establishments are characterized by the following:

- a. They buy and receive as well as sell merchandise;
- b. They may process some products, but such processing is incidental or subordinate to the selling activities; and

- c. They predominantly sell to customers for their own personal or household use.

The term "retail trade" is divided into the following subcategories for the purposes of this chapter:

- a. General retail.
- b. Antiques and collectibles store.
- c. Art gallery.
- d. Bicycle sales and repair.
- e. Book store, music store.
- f. Clothing and accessories.
- g. Craft or needlework shop.
- h. Drugstore, pharmacy.
- i. Electronics and appliance sales and repair.
- j. Florists.
- k. Specialty food store, including bakery, butcher shop, delicatessen, and the like.
- l. Jewelry store.
- m. Hardware store.
- n. Newsstands, magazine sales.
- o. Pet store.
- p. Photographic equipment and supplies.
- q. Picture framing.
- r. Secondhand store, thrift or consignment store.
- s. Sporting goods store.
- t. Stationery store.
- u. Tobacco store.
- v. Video rental or sales.
- w. Building supplies sales.
- x. Furniture and appliance sales, rental, showrooms.
- y. Grocery, supermarket.
- z. Liquor store.

aa. Warehouse club sales.

Shopping center means a group of commercial establishments planned, constructed, and managed as a total entity with shared access, customer and employee parking provided on-site, provision of goods delivery separated from customer access, aesthetic considerations and protection from the elements.

Wholesaling means establishments engaged primarily in selling merchandise to retailers, or to industrial, commercial, institutional, or professional business customers, or to other wholesalers, or on a mail order basis to individuals or firms, or which serve as agents or brokers buying merchandise for, or selling merchandise to, individuals and companies.

(6) *Automotive/vehicular uses.*

Automobile maintenance service means repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services and similar repair and service activities where minor repairs and routine maintenance are conducted.

Automobile parts/supply means retail sales of automobile parts and accessories. Typical uses include automobile parts and supply stores which offer new and factory rebuilt parts and accessories, and include establishments, which offer minor automobile repair services as an accessory use.

Car wash means washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes.

Commercial vehicle repair means repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. Typical uses include automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops, and other similar uses where major repair activities are conducted.

Gasoline station means any place of business with fuel pumps and underground storage tanks that provide fuels and oil for motor vehicles. A neighborhood convenience store associated with automobile fuel sales shall be considered a gasoline station.

Parking facility means any structure associated with a nonresidential use whose purpose is to provide the required off-street parking spaces for a principal use, or any site utilized for parking which constitutes the principal use on a parcel of land. This category also includes community lots, which are established to meet the parking needs in a residential area, and park and ride lots.

Sales and storage lots means establishments engaged in the display for sale or lease of automobiles, trucks, machinery, recreational vehicles and manufactured homes, including auto dealerships or the farm commercial storage of privately-owned trailers, boats, campers, or similar vehicles.

(7) *Outdoor recreation.*

Campgrounds and trailering means establishments engaged in providing overnight or short-term sites for the placement of recreational vehicles or temporary housing, with or without facilities such as water and electricity.

Golf course means a tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters. Included would be executive or par three golf courses. Specifically excluded are independent driving ranges or miniature golf facilities, which are classified as outdoor recreation facilities.

Marina means a facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews, and guests.

Outdoor entertainment means an outdoor facility developed for entertainment, amusement, or tourist purposes which typically involve large areas of land and concentrated traffic peaks oriented towards events at the facility, including drive-in theaters, amphitheaters, outdoor concert halls, or theme parks.

Outdoor recreation facility means a commercial recreation facility that is primarily an open-air facility, such as baseball fields, swimming pools, skating rinks, golf driving ranges, or miniature golf facilities.

Parks and open areas means uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses include, but are not limited to, clubhouses, maintenance facilities, concessions, caretaker's quarters, gazebos, pavilions, band shells, and parking. Examples include parks, public

squares, plazas, recreational trails, botanical gardens, boat launching areas, nature preserves, and land used for grazing that is not part of a farm or ranch.

Restricted recreation means commercial recreation facilities that are of greater nuisance than conventional outdoor athletic facilities because of:

- a. The noise and traffic volumes they may generate;
- b. The glare they produce; or
- c. The potential danger they may create from flying objects or the use of weapons. This category includes such uses as amusement parks, racetracks (auto, go-cart, motorcycle) or ranges (skeet, rifle, or archery).

(8) *Indoor recreation/entertainment.*

Adult establishment. See LEC 11.16.020.

Indoor athletic facility means a commercial recreation facility that provides completely enclosed or indoor recreation space, such as racquet clubs, indoor skating rinks, swimming pools, or gymnasiums.

Indoor recreation means establishments primarily engaged in activities intended to provide personal amusement, with the largest number of patrons typically during the evening hours or on weekends, and where food and refreshments may be provided as an incidental service, including such uses as bowling alleys, billiard, pool, or bingo parlors, amusement arcades, and indoor theaters (live or motion picture).

(9) *Agricultural and related uses.*

Agricultural entertainment business means an agricultural sales business that combines the elements and characteristics of agriculture and tourism, which is not necessarily located in an existing building. Examples of agricultural entertainment include: corn mazes, hay rides, sleigh rides, petting farms, on-farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities which are related to agriculture.

Agricultural production means establishments engaged in the production of crops, plants or vines, including agro forestry, or establishments which are engaged in the keeping, grazing, or feeding of livestock for sale, value increase, or livestock increase.

Agricultural sales business means the retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products. The operation may be indoors or outdoors, include pick-your-own or cut-your-own opportunities, and may involve the ancillary sale of items considered accessory to the agricultural products being sold or accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and homemade handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25 percent of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory items. No activities other than the sale of goods as outlined above shall be allowed as part of the agricultural sales business.

Agricultural services means establishments that perform services which support or assist the agricultural community, such as soil preparation services, crop services, farm management services, or breeding services on a fee or contract basis, along with experimental farms for research or educational purposes. This category is intended to apply where agricultural land is located, and may include buildings and other structures that provide office, warehouse, and storage areas for these establishments.

Agricultural support means establishments engaged in farm equipment sales and repair, farm produce sales and supply (feed grain, elevators) and small-scale farm product processing, such as cider mills, dairies, poultry or meat processing.

Forestry operations means the use of land for the raising and harvesting of timber, pulpwood or other forestry products for commercial purposes, including the temporary operation of a sawmill and/or chipper or grinder to process the timber cut from that parcel or contiguous parcels. Excluded from this definition shall be the cutting of timber associated with land development approved by the city which shall be considered accessory to the development of the property.

Greenhouse, non-retail, means a building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other tender plants.

Wayside stand means a temporary structure or vehicle used for the seasonal retail sale of agricultural goods, floriculture, and horticulture produced by the operator of the wayside stand, which is clearly a secondary use of the premises and does not change the character

thereof.

(10) *Alternative energy.*

Solar energy system means a device or structural design feature, a primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating, cooling, water heating, or for power generation.

Solar farm means a commercial facility that converts sunlight into electricity, whether by photovoltaic (PV), concentrating solar thermal devices (CST), or other conversion technology, for the principal purpose of sales of generated electricity to off-site customers.

Wind generator means a machine which generates energy/power from the wind.

(11) *Industrial and extractive uses.*

Closed landfill management means the use associated with the responsibility and obligation of the state pollution control agency (MPCA) to take necessary response actions on the property as provided in M.S.A. § 115B.412, subd. 4, and M.S.A. §§ 115B.39 to 115B.43.

Heavy industrial means establishments involved in the manufacture, fabrication, processing, compounding, or assembling of materials from raw material or previously processed material. These uses have severe potential for adversely affecting surrounding land uses due to potential environmental impacts related to noise, smoke/particulate emissions, vibration, noxious gases, odor, glare/heat, fire/explosion hazards and waste disposal. In addition, these uses may generate large amounts of truck or auto traffic, may involve the use of large unenclosed production areas, or may require large, tall structures that are unsightly. Heavy industrial uses typically involve primary production processes in the area of paper products (pulp mills), food processing (slaughterhouse, meat packing plant), chemicals (manufacture of inorganic chemicals, resins, plastics, paints, fertilizers, explosives, ink), petroleum products (refineries, bulk storage), primary metals (blasting, smelting, rolling), machinery and equipment manufacturer (auto assembly, engines, construction equipment), leather (storing, curing, tanning), gravel based products (manufacture of bricks, concrete, abrasives), and lumber products (saw mills).

Landfill means a disposal site employing an engineered method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying

cover material over all exposed waste at the end of each operating day.

Laundry plant means establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as personal services. Typical uses include bulk laundry and cleaning plants, diaper services, and linen supply services.

Light industrial means establishments involved in the processing, fabrication, assembly, or compounding of products where the process involved is relatively clean and nuisance free, usually completely enclosed, and with limited environmental effects. These uses can be made compatible with surrounding areas through landscape screening and through separation required by yard and height limitations. Typically, these uses result in the creation of finished products for sale on a wholesale basis to retailers or directly on a retail basis, and include uses in the following areas: lumber products (millwork, cabinet-making), electronics, textiles, printing and publishing services, bottling works, carpet and rug cleaning, furniture manufacture, paper (final processing of stationery, bags, etc., from purchased bulk stock), light metal finishing and light machining, rubber and plastics (compounding processed resins, molding plastics), gravel based products (pottery, cutting, finishing granite, firing and decorating clay products), and ice manufacturing.

Motor freight and warehousing means establishments engaged primarily in either the storage or shipment of goods and materials, including terminal facilities for handling freight, and maintenance facilities in which the trucks (including tractor trailer units) involved with the operation of the business are stored, parked and serviced. Materials within a warehouse or terminal facility may be combined, broken down, or aggregated for trans-shipment or storage purposes where the original material is not chemically or physically changed.

Non-production industrial means establishments that normally are considered industrial in character even though they are not involved in the manufacturing or processing of products. These uses generate negative impacts largely through their need for outside storage of equipment and materials, the large expanse of land needed for this storage, and the creation of dirt, dust and noise, along with intermittent truck traffic. These uses generally can be made compatible through landscape screening and the imposition of limited performance standards, and thus are not objectionable in most industrial or commercial districts. The types of uses categorized here include contractor's yards, lumberyards, utility yards, and public maintenance shops and yards.

Research and testing means establishments or other facilities for carrying

on investigation in the natural or physical sciences, or engineering and development as an extension of investigation with the objective of creating end products, on a contract or fee basis, and including pilot plant operation.

Resource extraction means a use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and soil mining. Specially excluded from this use type shall be grading and removal of dirt associated with an approved site plan or subdivision.

Salvage/recyclable center means land or buildings where waste, discarded, salvaged, or recyclable materials are bought, sold, stored, exchanged, sorted, cleaned, packed, disassembled or handled on a commercial basis, including, but not limited to, scrap metal, aluminum, rags, paper, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles. Any site containing two or more unregistered, inoperable motor vehicles is classified as a salvage center.

(12) *Utilities, transportation and communications.*

Air transportation means establishments engaged in domestic, emergency, or foreign transportation of passengers or goods by air, including airports, flying fields, rotorcraft terminals, as well as any associated terminal facilities.

Broadcasting or communication means any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication facility usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Broadcasting or communication facilities include wireless communications facilities and wireless communications towers as defined in LEC 1.08.

Essential services means overhead, above ground or underground electrical, gas, steam or water transmission or distribution systems and structures of collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewer pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith but not including buildings.

Local transit means establishments primarily engaged in furnishing local and suburban passenger transportation, including taxicabs, passenger charter services, school buses, and terminals (including service facilities) for motor vehicle passenger transportation.

Railroad transportation means establishments engaged in domestic freight and passenger transportation by rail, and including railroad yards, freight stations and switching yards.

(13) *Accessory uses.*

Bed and breakfast means a private, owner-occupied residence that contains no more than five guestrooms where lodging, with or without meals, is provided for compensation. Guest stays shall be limited to 30 days.

Commercial wedding ceremony venue means a use involving a location to conduct wedding ceremonies, not including receptions, and usually operated in exchange for remuneration by providing the venue to the public.

Domestic pets means the keeping of small domestic animals, such as dogs, cats, birds, rodents, fish, and the like, not primarily for produce or value increase, but rather for show, sport, or as pets.

Family day care means a residence licensed by the state department of human services in which no more than ten children at any one time receive care, maintenance and supervision by someone other than their relatives or legal guardians for less than 24 hours per day.

Group family day care means a residence licensed by the state department of human services in which at least 11, but not more than 14, children receive care, maintenance and supervision by someone other than their relatives or legal guardians for less than 24 hours per day.

Home occupations means any gainful occupation or profession engaged in by the occupants and up to one non-occupant employee of a dwelling when carried on within a dwelling unit or in an accessory building, provided that no signs other than those allowed by the city's sign regulations regarding home occupations are present.

Kennel, private, means the keeping, breeding, raising, showing or training of four or more dogs over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not

the primary objective.

Merchandise parties means private parties held for the purpose of soliciting sales. Merchandise parties shall include but not be limited to Tupperware, Mary Kay, and Avon parties.

Stable, private, means the keeping, breeding, or raising of horse or ponies exclusively for the personal use and enjoyment of the owner or occupant of the property or the riding of horses or ponies by the owner or occupant of the property and their guests.

Swimming pools means any permanently located pool, used for swimming and/or bathing which is over 24 inches in depth, or which has a surface area exceeding 150 square feet.

Temporary sales means any isolated or occasional display and sale of used personal property or home-crafted items conducted on residential premises by the occupant of the residential property. Temporary sales shall include rummage sales, basement sales, yard sales, porch sales, craft sales, garage sales, and seasonal boutiques.

(Code 2007, § 154.012; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-107, 5-6-2014; Ord. No. 08-135, 4-27-2016; Ord. No. 08-136, 6-14-2016; Ord. No. 08-197, § 7, 2-7-2018; Ord. No. 08-199, 2-7-2018; Ord. No. 08-198, § 1, 2-20-2018)

ARTICLE III ZONING DISTRICTS

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105.12.120 Classifications

For the purpose of this chapter, all land in the city is divided into zoning districts. The zoning districts shall be identified by the following classifications, including those districts identified in LEC 105.12.590:

R-2	One- and Two-Family Residential
GB	General Business
OP	Open Space Preservation District

OZD	Overlay Zoning Use District
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(Code 1997, § 300.07, subd. 1; Code 2007, § 154.030; Ord. No. 97-192, 6-19-2007; Ord. No. 97-195, 7-17-2005; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-098, 2-5-2014)

105.12.130 Boundaries

See LEC 105.12.600.

(Code 2007, § 154.031; Ord. No. 2012-062, 9-18-2012)

105.12.140 Zoning District Map

See LEC 105.12.600.

(Code 2007, § 154.032; Ord. No. 2012-062, 9-18-2012)

105.12.150 R-2 One- And Two-Family Residential

(a) Permitted uses and structures.

- (1) One-family detached dwellings; and
- (2) Two-family dwellings, provided they do not exceed 50 percent of the units in a block.

(b) Accessory uses and structures.

- (1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses and structures;
- (2) Private garages, carports, screenhouses, conservatories, playhouses, swimming pools, and storage buildings for use by occupants of the principal structure;
- (3) Temporary real estate tract office for the purpose of selling lots on the tract upon which it is located; and
- (4) Home occupations.

(c) Minimum district requirements.

<i>R-2 Zoning District</i>	
Lot Size:	
One-family	1 1/2 acre per unit without sanitary sewer; 7,500 feet per unit with sanitary sewer
Two-family	1 1/2 acre per unit without sanitary sewer; 6,000 square feet

	per unit with sanitary sewer
Lot Width:	
One-family	75 feet at front yard setback line with sanitary sewer; 125 feet without sanitary sewer
Two-family	100 feet at front yard setback line with sanitary sewer; 200 feet without sanitary sewer
Building setback from property lines (also see LEC 105.12.210):	
Front	30 feet
Side (Interior)	10 feet
Side (Corner)	25 feet
Rear	40 feet
Arterial Street	50 feet
Primary building height (also see LEC 105.12.220)	35 feet
Accessory buildings and structures:	
Accessory building and structures height (also see LEC 105.12.220)	14 feet
Off-street parking	3 spaces per unit
Septic drainfield regulations	All lots must have at least one acre of land suitable for septic drainfields and area sufficient for two separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited.
Maximum width of primary dwelling	All dwelling units must be at least 20 feet wide through the main living area of the structure.
Footings	The primary structure must have continuous frost footings. Continuous frost footings are not required for porches, decks, and other appendages so long as proper post type footings per existing building codes are constructed.
Maximum impervious	

surface coverage	
Maximum width of driveways	See LEC 9.16.090
Signage	See LEC 105.12.430

(Code 1997, § 300.07, subd. 4.D; Code 2007, § 154.033; Ord. No. 97-192, 6-19-2007)

105.12.160 GB General Business

(a) *Permitted uses and structures.*

(1) The following service/office uses:

- a. General business--service/office;
- b. Accounting;
- c. Advertising (sign fabrication not permitted use);
- d. Alterations;
- e. Apparel cleaning pick-up stations;
- f. Apparel repair and alterations;
- g. Architectural;
- h. Art gallery;
- i. Auditing;
- j. Bakeries (with production of bakery goods limited to retail sales);
- k. Barber services;
- l. Beauty shops;
- m. Bookkeeping;
- n. Business and management consultant offices;
- o. Business associations;
- p. Cafes and restaurants--drive-up window (menu boards and intercom systems prohibited; adequate vehicle stacking must be provided);
- q. Cafes and restaurants (limited to full table service operations);
- r. Charitable;

- s. Chiropractic;
- t. Civic, social and fraternal association offices and halls;
- u. Collection and adjustment services;
- v. Credit reporting (consumer and mercantile);
- w. Dental;
- x. Detective and protective agencies;
- y. Duplication;
- z. Educational;
- aa. Employment agencies;
- ab. Engineering;
- ac. Finance;
- ad. Galleries;
- ae. Governmental offices;
 - af. Insurance;
- ag. Investment;
- ah. Labor unions;
- ai. Legal;
- aj. Libraries;
- ak. Mailing;
- al. Medical;
- am. Medical services (the compounding, dispensing or retail sale of drugs, prescription items, patient or proprietary medicine, sick room supplies, prosthetic devices or items relating to any of the foregoing when conducted in the building occupied primarily by medical, dental, osteopathic, chiropractic or optometric offices);
- an. Optometric;
- ao. Osteopathic;
- ap. Photo gallery;
- aq. Professional membership organizations;
- ar. Real estate;
- as. Religious;

- at. Scientific research (excluding laboratory facilities);
- au. Shoe repair;
- av. Stenographic service;
- aw. Therapeutic massage (see licensing requirements in LEC 11.20.010);
- ax. Welfare offices.

(2) The following retail uses:

- a. General business--retail;
- b. Antiques and secondhand merchandise;
- c. Apparel and related accessories;
- d. Automobile repair and services;
- e. Automobiles and automobile accessories;
- f. Bicycles;
- g. Books;
- h. Building supplies;
- i. Cameras and photographic supplies;
- j. Cigars and cigarettes;
- k. Drugs and proprietary items;
- l. Electrical supplies;
- m. Flowers and floral accessories;
- n. Food and grocery products;
- o. Furniture;
- p. Gifts, novelties and souvenirs;
- q. Glass;
- r. Heating equipment;
- s. Home furnishings and related equipment;
- t. Jewelry;
- u. Liquors;
- v. Marine craft and accessories;
- w. Newspapers and magazines;

- x. Nursery and garden supplies;
- y. Optical goods;
- z. Paint;
- aa. Pets;
- ab. Plumbing equipment;
- ac. Sporting goods;
- ad. Stationery;
- ae. Wallpaper.

(3) The following repair/service uses:

- a. General business--repair/service;
- b. Clock repair;
- c. Electrical repair and supplies;
- d. Equipment, rental and leasing;
- e. Food catering;
- f. Furniture repair;
- g. Heating;
- h. Household appliances;
- i. Jewelry repair;
- j. Landscaping;
- k. Plumbing;
- l. Radio;
- m. Reupholstery;
- n. Television;
- o. Watch repair.

(4) The following office uses (excluding equipment storage):

- a. General business--office;
- b. Air conditioning contractor;
- c. Building construction contractor;
- d. Carpentry contractor;

- e. Decorating contractor;
- f. Heating contractor;
- g. Masonry contractor;
- h. Painting contractor;
- i. Plastering contractor;
- j. Plumbing contractor;
- k. Roofing contractor;
- l. Sheet metal contractor;
- m. Stone work contractor;
- n. Tile setting contractor;
- o. Wallpaper contractor;
- p. Water well drilling contractor;
- q. Wood flooring contractor.

(5) Uses permitted by conditional use permit:

- a. General business--conditional use;
- b. Bed and breakfast facility: 15 beds maximum;
- c. Boarding care facility: 15 residents maximum;
- d. Day care centers: 40 children maximum;
- e. Family entertainment centers;
- f. Fitness studio: Maximum floor area not to exceed 5,000 square feet;
- g. Kennels;
- h. Nursing care facility: 15 residents maximum;
- i. Open sales lots;
- j. Manufacturing: Any industrial manufacturing operation in existence within the city at the effective date of the ordinance from which this chapter is derived, including manufacture of wood products and plastic products, may continue the use as a conforming use without a conditional use permit. Nothing in this provision shall otherwise be construed to require the city to authorize any manufacturing use in the general business zone after the effective date of the ordinance from which this chapter is

derived;

k. Veterinary clinics.

(6) General requirements:

- a. All storage, services, repair or processing shall be conducted wholly within an enclosed building or behind opaque fence or wall not less than six feet high, except the outdoor display of merchandise;
- b. Incineration of waste matter shall be conducted in approved equipment located within the building wherein the permitted use is conducted;
- c. Where a proposed GB development abuts on RR, R-1, R-2, R-3, R-4, or RE district other than at a public street line, buffer provision shall be established. There shall be provided a protective strip of not less than 35 feet in width. The protective strip shall not be used for parking, off-street loading or storage and shall be landscaped. The protective strip must be approved by the council as being in harmony with the residential neighborhood and providing sufficient screening of the commercial area;
- d. All lots must have at least one acre of land suitable for septic drainfields and area sufficient for two separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited; and

(b) *Accessory uses.* Uses which are clearly incidental and subordinate to the allowed uses shall be accessory.

(c) *Minimum district requirements.*

(1) Septic drainage regulation;

(2) All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system (primary and secondary location) as approved by the county can be installed in accordance with Washington County Subsurface Sewage Treatment System Regulations.

(d) *Performance standards.*

(1) *Purpose and intent.*

- a. It is the purpose and intent of the city, by the adoption of the performance standards of this article, to ensure commercial buildings constructed within the city are of a high quality of exterior

appearance, consistent with the terms of Nonresidential Development Policy #5 of the 2000--2020 Lake Elmo Comprehensive Plan. It is the finding of the city that a limited selection of primary exterior surfacing materials meets this standard of quality.

- b. It is the further finding of the city that several specific exterior surfacing materials are appropriate, and of sufficient quality, to be utilized only as accent materials in varying percentages. The variations of percentage of specific accent materials relates to a finding by the city as to the relative quality and rural character of those respective accent materials.

(2) *Architectural and site plan submittals.* New building proposals shall include architectural and site plans prepared by registered architect and shall show the following as a minimum:

- a. Elevations of all sides of the buildings;
- b. Type and color of exterior building materials;
- c. Typical general floor plans;
- d. Dimensions of all structures; and
- e. Location of trash containers, heating, cooling and ventilation equipment and systems.

(3) *Applicability, structure additions and renovation.*

- a. Additions to existing structures resulting in an increase of gross floor area of the structure of less than 100 percent; and/or installation of replacement exterior surfacing of any portion of an existing structure shall be exempt from the standards of this article where it is found that the new or replacement exterior surfacing proposed is identical to that of the existing structure.
- b. Where additions to an existing structure result in an increase in the gross floor area of the existing structure of 100 percent or greater, the entire structure (existing structure and structure addition) shall be subject to the standards of this article.

(4) *Performance standards, primary exterior surfacing.*

- a. The primary exterior surfacing of structures shall be limited to natural brick, stone, or glass. Artificial or thin veneer brick or stone less than nominal four inches thick shall not qualify as complying with this performance standard.

- b. Primary exterior surface shall be defined as not less than 70 percent of the sum of the area of all exterior walls of a structure nominally perpendicular to the ground. All parapet or mansard surfaces extending above the ceiling height of the structure shall be considered exterior surface for the purposes of this article. Windows and glass doors shall be considered a primary surface, but the sum area of this glass shall be deducted from the wall area for the purposes of the 70 percent primary/30 percent accent formulas of this chapter. Doors of any type of material, except glass, shall not be considered a primary exterior surface.
- c. Each wall of the structure shall be calculated separately and, individually comply with the 70/30 formula.

(5) *Performance standard, exterior surfacing accents.* Not more than 30 percent of the exterior wall surfacing, as defined by subsection (d)(4) of this section, may be of the following listed accent materials, but no single accent material, except natural wood, may comprise more than 20 percent of the total of all accent materials; and, no combustible materials shall be used:

- a. Cedar, redwood, wood siding;
- b. Cement fiber board;
- c. Standing seam metal;
- d. Architectural metal;
- e. Stucco;
- f. Poured in place concrete (excluding "tilt-up" panels);
- g. Architectural metal panels; and
- h. Porcelain or ceramic tile.

(6) *Performance standard, accessory structures.* All accessory structures shall comply with the exterior surfacing requirements specified by this subsection (d) of this section.

(7) *Performance standard, HVAC units and exterior appurtenances.* All exterior equipment, HVAC and trash/recycling and dock areas shall be screened from view of the public with the primary exterior materials used on the principal structure.

(8) *Performance standard, visible roofing materials.* Any roofing materials that are visible from ground level shall be standing seam metal, fire-treated cedar shakes, ceramic tile, clay tile, concrete or slate.

- (9) *Applicability, new construction.* The standards of this section shall be applicable to all structures and buildings constructed in the city, on and after the effective date of the ordinance from which this chapter is derived. The performance standards of this article shall not be in any manner minimized by subsequent planned unit development plans or agreement.

(Code 2007, § 154.034; Ord. No. 97-20, 10-21-1997; Ord. No. 97-38, 11-17-1998; Ord. No. 97-86, 10-2-2001; Ord. No. 97-88, 10-2-2001; Ord. No. 97-108, 5-7-2002; Ord. No. 97-138, 9-7-2004; Ord. No. 97-170, 5-2-2006; Ord. No. 97-175, 6-20-2006; Ord. No. 97-192, 6-19-2007; Ord. No. 2012-064, 12-4-2012; Ord. No. 08-235, § 1, 3-4-2020)

105.12.170 OP Open Space Preservation District

- (a) Provisions regulating the OP Open Space Preservation District were repealed and replaced with the regulations now in LEC 105.12, art. XVII.
- (b) Buffer setbacks in OP developments. Buffer setbacks shall be applied from the edge of the existing open space preservation developments as follows:

<i>Buffer Setbacks in OP Developments (in feet)</i>					
	<i>North Edge</i>	<i>South Edge</i>	<i>West Edge</i>	<i>East Edge</i>	<i>Exception Parcels</i>
St. Croix's Sanctuary	200	50	50	100	
Discover Crossing	200	100	50	100	
Whistling Valley I	25	200	N/A	N/A	
Whistling Valley II	25	100	85	N/A	
Whistling Valley III	50	100	100	N/A	
Farms of Lake Elmo	100	50	100	25	
Prairie Hamlet	200	50	50	100	
Fields of St. Croix I	50	N/A	200	100	
Fields of St. Croix II	N/A	200	200	N/A	N/A
The Homestead	50	50	200	50	
Tapestry at Charlotte's Grove	50	50	200	50	100
Tamarack Farm Estates	100	100	100	100	
Sunfish Ponds	100	100	100	200	

Hamlet on Sunfish Lake	50	100	50	50	
Cardinal Ridge	100	200	50	50	
Wildflower Shoves	100	200	100	200	
Heritage Farms	50	N/A	N/A	50	N/A
Tana Ridge (Res. 2009-033)	N/A	N/A	50	50	
Parkview Estates (Res. 2009-033)	50; except lot 9, block five use 20 ft	N/A	N/A	50	

(Code 2007, § 154.035; Ord. No. 08-152, 10-4-2016)

105.12.180 OZD Overlay Zoning Use District

The following overlay districts are designed to promote orderly development or to protect some specific sensitive natural resources. These district regulations are in addition to, rather than in lieu of, regulations imposed by the existing basic zoning use districts. These districts are defined and established as follows:

- (a) Floodplain: See LEC 100.00.060;
- (b) Restrictive Soils Overlay District: See LEC 105.04.450 through LEC 105.04.480;
- (c) Wetland Protection and Preservation Overlay District: See LEC 105.04.500 through LEC 105.04.530;
- (d) Shoreland District: See LEC 105.12.1230;
- (e) Interstate Corridor Overlay District: See LEC 105.04.540 through LEC 105.04.620;
- (f) Airport: (Reserved); and
- (g) Open Space Development Overlay District: See LEC 105.12, art. XVII.

(Code 1997, § 300.07, subd. 4.P; Code 2007, § 154.036; Ord. No. 97-192, 6-19-2007; Ord. No. 08-152, 10-4-2016)

ARTICLE IV ADDITIONAL REGULATIONS AND MODIFICATIONS

[105.12.190 Additions And Exceptions To Minimum Area, Height, And Other Requirements](#)

[105.12.200 Permitted Encroachments On Required Yards](#)

[105.12.210 Setbacks](#)

[105.12.220 Height](#)

105.12.190 Additions And Exceptions To Minimum Area, Height, And Other Requirements

- (a) *Existing lot.* An existing lot is a lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the county recorder or registrar of titles, on or before the effective date of the ordinance from which this chapter is derived. Any such lot or parcel of land which is in a residential district may be used for single-family detached dwelling purposes, provided the area and width of the lot are within 60 percent of the minimum requirements of this chapter; provided, all setback requirements of this chapter must be maintained; and provided, it can be demonstrated safe and adequate sewage treatment systems can be installed to serve the permanent dwelling. Any one-acre lot which was of record before October 16, 1979 may be used for single-family detached dwelling purposes regardless of ownership of adjacent parcels, provided the lot meets all other requirements of this chapter.
- (b) *Reductions in lot size for municipal purposes.* Any lot that has been reduced in size due to the acquisition of property for municipal purposes that would otherwise meet the requirements of an existing lot as described in subsection (a) of this section, may be used for a single-family detached dwelling, provided that the lot is not reduced in size by more than ten percent of the minimum district requirements due to the municipal land acquisition and further provided the lot conforms to all other zoning district and subdivision standards for the district in which it is located. This provision shall apply to the subdivision of lots in existence prior to the adoption of the ordinance codified in this article that would have otherwise met the zoning district standards for lot size and that meet all requirements of this section.
- (c) *Contiguous parcels.* If, in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width or area requirements of this chapter, the individual lot or parcel cannot be considered as a separate parcel of land for the purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination will equal one or more parcels of land, each meeting the full lot width and area requirements of this chapter.
- (d) *Subdivision of lots.* Any lot or parcel of land subdivided by any means after the effective date of the ordinance from which this chapter is derived for the purposes of erecting a structure, must be approved as required by the subdivision ordinance.
- (e) *Lake and stream frontage lots.* All lots having frontage on a lake or stream shall be subject to the provisions of the shoreland management ordinance as well as the regulations provided by this chapter. Structures or improvements requiring a permit (except fencing) on lots or adjacent to naturally occurring bodies of water that are not classified or identified in the shoreland management ordinance have

a minimum setback of 25 feet from the ordinary high water level (OHWL) (this standard shall not apply to properties adjacent to stormwater ponds or other manmade water bodies), except as provided in the shoreland management section.

- (f) *Lots in the floodplain.* All lots in a designated floodplain shall be subject to the floodplain ordinance as well as the regulations provided by this chapter.
- (g) *Reduction of required yard or lot size prohibited.* No yard or lot shall be reduced in area or dimension so as to make it less than the minimum required by this chapter, and if the existing yard or lot is less than the minimum required, it shall not be further reduced. No required yard or lot currently used for a building or dwelling group shall be used to satisfy minimum lot area requirements for any other building.
- (h) *Sloping on erodible building sites.* On sites with slopes of greater than 25 percent or on easily erodible soils, as defined on the community soils maps and compiled by the county soils conservation agent, no structure shall be constructed.
- (i) *Minimum area requirements for lots without public sanitary sewer.* In areas without public sanitary sewer, but where public sanitary sewer is proposed in the city's capital improvement program, single- and two-family homes shall demonstrate suitable soil conditions for adequate on-site sewage treatment area.
 - (1) In areas without public sanitary sewer where public sanitary sewer is not proposed in the city capital improvement program or comprehensive plan, single- and two-family homes shall demonstrate suitable soil conditions for a minimum on-site sewage treatment area as established by the county subsurface sewage treatment system regulations.
 - (2) A building permit shall not be issued for a lot which either does not meet the minimum acres of acceptable soils for on-site sewage treatment; or does not have enough acceptable soils within the lot or under legal contract to construct at least two complete septic/drainfield treatment systems, as established by the county subsurface sewage treatment system regulations.
- (j) *Lot width on a public street.* All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel on a dedicated and approved public roadway to the width derived from applying the lot width requirement in each zoning district.

(Code 1997, § 300.09; Code 2007, § 154.080; Ord. No. 08-042, 5-3-2011; Ord. No. 08-246, § 1, 2021; Ord. No. 08-247(2), § 1, 2021)

105.12.200 Permitted Encroachments On Required Yards

The following shall be permitted encroachments into setback and height requirements,

except as restricted by other sections of this chapter:

(a) *In any yards.*

- (1) Posts, off-street open parking, flutes, leaders, sills, pilasters, lintels, cornices, eaves (up to three feet), gutters, awnings, open terraces, steps, chimneys, flag poles, open fire escapes, egress window/wells, sidewalks, fences, essential services exposed ramps (wheelchair), patios, stoops, decks not requiring railings in accordance with state building codes, or similar features, provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than five feet from any lot line nor less than one foot from any existing or proposed driveway; yard lights and nameplate signs; trees, shrubs, plants, floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yards for safety and security reasons; provided the direct source of light is not visible from the public right-of-way or adjacent residential property.
- (2) Porches as defined in LEC 1.08 may encroach up to six feet into a required front yard setback or side corner yard, but in no case shall be setback less than ten feet from the front property line. A porch is not allowed in a side or rear yard setback.

- (b) *Side and rear yards.* Fences; walls and hedges six feet in height or less; bays not to exceed a depth of three feet or containing an area of more than 30 square feet; egress/window wells not to exceed the minimum area needed to meet building/fire code or fire escapes not to exceed a width of three feet.
- (c) *Corner lots.* Nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of 2½ feet and ten feet above the centerline grades of the intersecting streets within 100 feet of the intersection.
- (d) *Off-street parking.* In no event shall off-street parking spaces, structures of any type, buildings, or other improvements cover more than 75 percent of the lot area. In no event shall the landscaped portion of the lot be less than 25 percent of the entire lot as a result of permitted encroachments. In shoreland areas, no more than one-third of lot areas shall be covered with improvements.

(Code 1997, § 300.10; Code 2007, § 154.081; Ord. No. 08-017, 10-6-2009; Ord. No. 08-154, 10-4-2017; Ord. No. 08-248, § 1, 2021)

105.12.210 Setbacks

- (a) *Front setbacks.* Where adjacent residential structures on the same side of the street between intersections have front yard setbacks different from those required, the front yard minimum setback shall be the average of the immediately

adjacent structures. If there is only one immediately adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the required front yard setback exceed the required minimum established within the districts of this chapter.

- (b) *Side and rear setbacks.* Subject to regulations contained in the building code and other applicable regulations, side and rear setback requirements may be waived, provided party walls are used and the adjacent buildings are constructed as an integral unit and are part of an approved shopping center, townhouse development, or other similar development. The waiver shall only be by issuance of a variance.
- (c) *Setbacks from private roads.* All setback requirements of this chapter shall also be applicable to private roads and easement access rights-of-way.

(Code 1997, § 300.11; Code 2007, § 154.082; Ord. No. 08-003, 1-22-2008)

105.12.220 Height

(a) Maximum height.

- (1) Antennas shall not be located on structures in excess of 65 feet in height unless the structures are existing water towers and the antennas are only an accessory use on the water towers.
- (2) No other structure shall exceed 35 feet in height including church spires, belfries, cupolas and domes, monuments, chimneys and smokestacks, flag poles, public facilities, except barns, silos, and other farm structures, utility transmission services, and transmission towers of commercial broadcasting stations.

- (b) *Parapet walls.* Parapet walls shall not exceed more than four feet above the permitted height of the building.

(Code 1997, § 300.12; Code 2007, § 154.083)

ARTICLE V ZONING ADMINISTRATION AND ENFORCEMENT

[105.12.230 Director Of Planning](#)

[105.12.240 Applications Review Process](#)

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105.12.330 Violations And Enforcement

105.12.230 Director Of Planning

The city council shall appoint a director of planning. The director of planning, or his designated agent, shall enforce this chapter and shall perform the following duties:

- (a) *Permits*. Issue zoning permits pertaining to the zoning ordinance and make and maintain records thereof;
- (b) *Inspections*. Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter;
- (c) *Records*. Coordinate with the city clerk to maintain permanent and current records of this chapter, including, but not limited to, all maps, amendments and conditional uses, variances, appeals and applications therefor;
- (d) *Applications*. Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies;
- (e) *Interpretation*. Interpret the provisions of this chapter and related provisions of the city Code, including determinations of zoning use types and classifications as specified in LEC 105.12.110;
- (f) *Enforcement*. Institute in the name of the city any appropriate actions or proceedings to enforce this chapter;
- (g) *Work program*. Recommend a program of work pursuant to section LEC 3.12.180 to the planning commission prior to the beginning of each calendar year and at such other times as the planning commission may request;
- (h) *Reporting*. Submit a yearly report to the planning commission in January of each year summarizing the activities of the planning department during the previous year, including information related to housing, public infrastructure, city facilities, industrial and commercial development, enforcement actions, and other such information as the director of planning deems relevant. This report should also include any recommended changes to the comprehensive plan or various land use ordinances;
- (i) *Planning commission*. Serve as an ex officio, non-voting member of the planning commission.

(Code 2007, § 154.100; Ord. No. 08-085, 7-2-2013)

105.12.240 Applications Review Process

- (a) *Application form and fee*. The following general provisions apply to all applications required under this chapter:

(1) *Application form.*

- a. *Application in writing.* All applications for any site plan, conditional use permit, zoning verification, variance, or for any other city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, to the director of planning.
- b. *Information required.* Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. In addition, every application shall include the submission requirements listed in subsection (b)(1) of this section. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.

- (2) *Fee.* The application shall be accompanied by the required fee as established by resolution of the city council. If a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to the district court, as provided by M.S.A. § 462.361 (judicial review), as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.

(b) *Application requirements.*

- (1) *Submission materials.* Submission materials for applications required under this chapter shall include the following specific information:
- a. Site plan drawn to scale showing parcel and building dimensions.
 - b. Location of all buildings and their size, including square footage.
 - c. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks.
 - d. Landscape plans meeting the requirements of LEC 105.12.480.
 - e. If grading or stormwater management is proposed, grading and stormwater, erosion, and sediment control plans meeting the requirements of LEC 105.04.710 through LEC 105.04.840, LEC 105.08.060, and LEC 105.08.130.
 - f. Type or types of business or activity and proposed number of employees.
 - g. Proposed floor plan of any building with use indicated.
 - h. Building elevation drawings of any new construction or building renovation proposed.

- i. Sanitary sewer and water plans with estimated flow rates.
- j. Soil type and soil limitations for intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitation shall be made part of the application.
- k. For applications that require a public hearing, a certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor.
- l. The director of planning may require that the applicant supply proof of ownership of the property for which a permit is requested.
- m. The director of planning may require traffic generation information to determine the adequacy of existing transportation infrastructure.
- n. Such other information as may be required by the director of planning, planning commission, or city council.

(2) *Waiver of submission materials.* The director of planning may waive certain submission requirements for projects that will have a minimal impact on surrounding properties or in instances when said submission requirements are impractical given the nature of the proposed development.

(c) *Amended applications.* An amendment to any permit issued under this chapter shall be processed in the same manner as a new application.

(d) *State established time limit for final action.* The city shall comply with the time limits as established by M.S.A. § 15.99 (time deadline for agency action), as it may be amended from time to time, with regards to taking action on any applications subject to said statute.

(Code 2007, § 154.101; Ord. No. 08-085, 7-2-2013)

105.12.250 Public Hearing Requirements

This section contains requirements for public hearings held by the planning commission, board of adjustment or city council under this chapter.

- (a) *Notification of the general public.* The director of planning shall set the date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, and not less than ten days prior to the hearing.
- (b) *Notification of surrounding property owners.* For any application for which a public hearing is required, the director of planning shall notify all property owners within the affected zone and within 350 feet of the outer boundaries of the

property in question.

- (1) Failure of any property owner to receive such notification shall not invalidate the proceedings.
- (2) The city council may waive the mailed notice requirements for a city-wide amendment to the zoning ordinance initiated by the planning commission or city council.

(c) *Hearing procedures.*

(1) *Public hearings conducted by the planning commission, city council, and board of adjustment.*

- a. The director of planning or his representative shall summarize the application and any associated information.
- b. The applicant shall be allowed to summarize the request and call any witnesses to support his request.
- c. The public shall be allowed to make statements concerning the request subject to reasonable limits that may be set by the body conducting the hearing.
- d. The planning commission, city council and board of adjustment may establish other procedures as needed to ensure due process for those parties involved with the hearing.

(2) *Appeal hearings.* The board of adjustment shall hold a hearing and make a decision on any appeal submitted in accordance with LEC 105.12.310. The board of adjustment shall establish rules for due process during appeal hearings and any part to the appeal may appear at the hearing in person or by agent or attorney. At a minimum, the following hearing procedure will be followed:

- a. Appellant shall present a case and may call any witnesses necessary in support thereof;
- b. Respondent may ask questions of appellant's witnesses;
- c. Respondent may call witnesses;
- d. Appellant may ask questions of respondent's witnesses;
- e. Respondent may summarize his position;
- f. Appellant may summarize his position;
- g. Generally, the Minnesota District Court Rules of Civil Procedure shall apply for the conduct of the hearing.

105.12.260 Permits, Certificates And Licenses

(a) *Building permits.*

- (1) *Compliance.* A building permit is required for the construction or structural alteration of a building or any part thereof. Other construction activity may require a permit in accordance with the state building code. Demolition, wrecking or removal of any structure shall require a demolition or moving permit. No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all requirements of the state building code as adopted by the city pursuant to LEC 105.08 have been fully met.
- (2) *Concurrent applications.* If the proposed development requires a zoning amendment, variance or conditional use permit, or other permit required under this article, the applicant shall secure all required permits prior to the issuance of a building permit for said development.
- (3) *Administrative review of permits for existing platted lots.* If the proposed development does not involve a zoning amendment, variance or conditional use permit, and proposes a use, structure or expansion of an existing structure on an existing platted lot, the director of planning may review the application and authorize the building official to approve or to deny the permit.
- (4) *Expiration.* Any building permit issued by the city shall expire and by limitation be null and void if a certificate of occupancy and final completion has not been issued within the following applicable period of time after the date of permit issuance:
 - a. Single-family residential dwellings, including new construction, remodeling or additions: 12 months;
 - b. Multifamily and nonresidential construction: 12 months, unless a longer time is specified by the city council at the time the original permit is issued;
 - c. Extension. The building official may grant an extension prior to the expiration of any building permits in accordance with the state building code. An expired building permit may be reissued once, by the building official, for one-half the original permit fee. Thereafter, if the permitted work is not completed within the applicable time period, a new permit may be issued only upon such conditions as the city council by resolution may prescribe, including financial guarantees to guarantee completion by a specified date;

d. Time limitations for exterior work. All exterior work shall be completed as follows:

1. All disturbed and exposed ground shall be covered with landscaping in accordance with LEC 105.04.080 through LEC 105.04.160.
2. All exterior construction, including siding, roofing, doors, windows and finish shall be completed and present a finished appearance within six months of the start of construction. Tar paper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish. Extensions for weather-sensitive work may be granted by the building official.
3. Failure to complete exterior work as required herein shall result in suspension of the existing permit until a reinstatement fee equal to 100 percent of the original building permit has been made. Reinstatement of a building permit does not extend the original term of the permit. The reinstatement fee shall also be paid prior to re-issuance of any subsequent permit for exterior work that was not completed under a prior permit that expired.

(b) *Certificate of zoning compliance.* A certificate of zoning compliance is a zoning permit that is intended as a means of administratively reviewing a new use, change in use, or structural change that does not require a building permit.

(1) *When required.* A certificate of zoning compliance or other city issued permit is required for the following activities:

- a. A new use classification within an existing building or structure;
- b. A change of use classification within an existing building or structure;
- c. Addition, removal or change in parking or other on-site improvements including patios;
- d. Small accessory structures that do not require a building permit;
- e. Swimming pools;
- f. Tennis courts, sport courts, or other similar improvement;
- g. Antennas, including amateur radio antennas and wireless communications facilities that meet the criteria for administrative

review in LEC 105.04.240(c);

- h. Fences six feet and less in height;
- i. Driveways that are not authorized as part of an approved building permit;
- j. Stormwater management activities and structures not otherwise permitted as part of a development application;
- k. Other situations or improvements requiring additional review or interpretation, as specified elsewhere in this article.

(2) *Expiration of a certificate of zoning compliance.* Where a certificate of zoning compliance use has been established and is discontinued for any reason for a period of one year or longer, the certificate of zoning compliance shall become null and void.

(c) *Certificate of occupancy.* No vacant land shall be occupied or used and no buildings hereafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued by the building official. Such certificates shall show that the building or premises or part thereof and the use thereof are in conformity with the state building code and the provisions of this chapter. Such certificate shall be issued only when the building or premises and the use thereof conform to all the requirements of the city Code.

(d) *Sign permit.* A sign permit shall be authorized for a sign that conforms to the sign regulations in LEC 105.12.430. An application, on a form provided by the director of planning, shall be submitted with the required fee by the owner of the proposed sign. The director of planning shall issue a sign permit if all of the regulations in LEC 105.12.430 are met.

(e) *Special event permit.* A special event permit may be issued for certain events for activities or events not otherwise permitted under the zoning ordinance in accordance with LEC 11.04.070.

(f) *Grading permit.*

(1) *Required.* A permit shall be required for all non-agricultural projects or activities that will result in the movement of more than 50 cubic yards of earth or the disturbance of more than one-half acre of land, and for construction of a building or structure on steep slopes, as specified in LEC 105.12.1230(c)(7)e. The director of planning may issue a grading permit only if the grading plan meets the requirements of the city stormwater management and erosion and sediment control ordinance.

(2) *Public hearing.* All grading and excavating applications, for the purpose of creating wetlands, berming, landscape amenities, and other natural features that result in the moving of more than 400 cubic yards of material

per acre of site area shall require a public hearing.

(Code 2007, § 154.103; Ord. No. 08-085, 7-2-2013; Ord. No. 08-241, § 1(154.103), 2021)

105.12.270 Planning Commission

The planning commission shall provide assistance to the city council in the administration of this chapter. The recommendations of the planning commission shall be advisory in nature. Specifically, the planning commission shall review, hold public hearings, and make recommendations to the city council on all applications for zoning amendments, variances, and conditional use permits using the criteria of this article. The planning commission shall be formed and operate in conformance with LEC 3.12 and specifically with LEC 3.12.110 through LEC 3.12.280.

(Code 2007, § 154.104; Ord. No. 08-085, 7-2-2013)

105.12.280 Zoning Amendments

- (a) *Criteria for granting zoning amendments.* The city council may adopt amendments to the zoning ordinance and zoning map in relation to land uses within a particular district or to the location of a district line. Such amendments shall be used as a means to reflect changes in the goals and policies of the city as reflected in the comprehensive plan.
- (b) *Types of amendments.*
 - (1) *Rezoning.* A change in the boundary of a zoning district or a change from one district to another on the official zoning map, referred to as a rezoning.
 - (2) *Text amendment.* A change in the text for specific zoning district regulations or any other provision of this chapter.
- (c) *Initiation of proceedings.* Proceedings for a text amendment or a rezoning may be initiated by one of the following three methods:
 - (1) By petition of an owner or owners of property that is proposed to be rezoned or for which a text amendment for a change in a district regulation is proposed;
 - (2) By recommendation of the planning commission;
 - (3) By action of the city council.
- (d) *Application requirements for zoning amendments initiated by petition.* A petition for a zoning amendment shall be submitted to the director of planning on such form as required by LEC 105.12.240 and accompanied by the following

information:

- (1) Conceptual site plan drawn to scale showing all affected parcels and a general concept for any proposed development of said parcels.
 - (2) General location of all buildings and their approximate dimensions and square footage.
 - (3) Approximate location of all curb cuts, driveways, access roads, parking areas, off-street loading areas, and sidewalks.
 - (4) Conceptual landscape plan indicating general planting areas for trees, shrubs, and lawns.
 - (5) Conceptual grading, erosion control, and stormwater management plan.
 - (6) Conceptual sewer and water utility plan for the development.
 - (7) Narrative indicating the types of uses or businesses that are contemplated for the development, number of employees, parking and traffic impacts, and other pertinent information about the proposed development.
 - (8) The director of planning may require the applicant to supply proof of ownership of the property for which the amendment is requested that illustrates legal or equitable interest in the property.
- (e) *Hearing requirements.* The planning commission shall hold a public hearing on each complete application for a zoning amendment as provided in LEC 105.12.250. After the close of such hearing, the planning commission shall consider findings and shall submit the same together with its recommendation to the city council.
- (f) *Effect of denial of application.* No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the planning commission within the one-year period following a denial of such request, except the planning commission may permit a new application, if in the opinion of the planning commission, new evidence or a change of circumstances warrant it.
- (g) *Relationship to comprehensive plan.* Any rezoning shall be consistent with the current city comprehensive land use plan. If the rezoning is not consistent with the current comprehensive plan, an amendment to the comprehensive plan must be requested and approved prior to or concurrent with the rezoning request.
- (h) *Coordination with adjoining communities.* Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the planning commission and the adjacent community or county for review and comment prior to action by the city council granting or denying the zoning district classification change. A period of at least ten days shall be

provided for receipt of comments. Such comments shall be considered as advisory only.

(Code 2007, § 154.105; Ord. No. 08-085, 7-2-2013)

105.12.290 Conditional Use Permits

(a) *Required findings.* 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 as provided by official controls only upon a finding that all of the following provisions are met:

- (1) The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.
- (2) The use or development conforms to the city comprehensive plan.
- (3) The use or development is compatible with the existing neighborhood.
- (4) The proposed use meets all specific development standards for such use listed in LEC 105.12, art. IX.
- (5) If the proposed use is in a floodplain management or shoreland area, the proposed use meets all the specific standards for such use listed in LEC 105.04, LEC 105.12.1230 and LEC title 100.
- (6) The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
- (7) The proposed use will not be hazardous or create a nuisance, as defined under this chapter, to existing or future neighboring structures.
- (8) The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
- (9) The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (10) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.

- (11) Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
 - (12) The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance.
- (b) *Application requirements.* Conditional use permit applications shall be submitted to the director of planning on such form and accompanied by such information as required by LEC 105.12.240(a) and with the submission materials listed in LEC 105.12.240(b).
- (c) *Public hearing required.* The planning commission shall hold a public hearing on each complete application for a conditional use permit as provided in LEC 105.12.250. After the close of the hearing on a proposed conditional use permit, the city planning commission shall consider findings and shall submit the same together with its recommendation to the city council.
- (d) *Final decision by city council.* The city council shall make the final decision on a conditional use permit after a public hearing by the planning commission. The city council may approve, approve with conditions, or deny the application.
- (e) *Conditions.* In reviewing applications for conditional use permits, the planning commission and council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with these uses, to protect the value of property within the district and to achieve the goals and objectives of the comprehensive plan. In determining such conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic and other negative characteristics associated with such uses.
- (1) The conditions shall include all specific development standards for such use listed in LEC 105.12, art. IX.
 - (2) If the proposed use is in a floodplain management or shoreland area, the conditions shall include specific standards for such use listed in LEC title 100 and LEC 105.04.630 through LEC 105.04.700.
 - (3) In addition, conditions may include, but are not limited to, the following:
 - a. Controlling the number, area, bulk, height and location of such uses;
 - b. Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other catastrophe;
 - c. Regulating off-street parking and loading areas where required;

- d. Controlling the location, availability and compatibility of utilities;
 - e. Requiring berming, fencing, screening, landscaping or other means to protect nearby property; and
 - f. Requiring other conditions to create compatibility of appearance with surrounding uses.
- (f) *Findings for denial.* If the planning commission recommends denial of a conditional use permit or the council orders such denial, it shall include in its recommendation or determination findings as to the specific ways in which the proposed use does not comply with one or more specific findings required by this chapter.
- (g) *Permittee.* A conditional use permit shall be issued for a particular use and not for a particular person, except in the case of a permit granted for the uses of land reclamation, mining or soil or mineral processing. In such cases, a permit shall be issued to the particular person making application for such permit and such permit shall not be transferred or assigned for use by another without the written consent of the city. However, such consent by the city shall not be unreasonably withheld.
- (h) *Periodic review.* A periodic review of the use may be attached as a condition of approval of a conditional use permit.
- (i) *Term of permit.* Unless otherwise stipulated, the term shall be the life of the use.
- (j) *Revocation.* Failure to comply with any condition set forth in a conditional use permit, or any other violation of this chapter, shall be a misdemeanor and shall also constitute sufficient cause for the termination of the conditional use permit by the city council following a public hearing conducted in accordance with LEC 105.12.250.
- (k) *Expiration.* If substantial construction has not taken place within 12 months of the date on which the conditional use permit was granted, the permit is void except that, on application, the council, after receiving recommendation from the planning commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of the ordinance from which this chapter is derived, but the six-month period shall not be deemed to commence until the effective date of the ordinance from which this chapter is derived.

(Code 2007, § 154.106; Ord. No. 08-085, 7-2-2013; Ord. No. 08-152)

105.12.300 Interim Use Permits

(a) *Purpose and intent.* The purpose and intent of allowing interim uses are:

- (1) To allow a use for a limited period of time that reasonably utilizes the property where such use is not consistent with the future land map in the comprehensive plan; and
- (2) To allow a use that is presently acceptable, but that with anticipated development or redevelopment or other significant change, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district.

(b) *Required findings.* An interim use permit may be granted only if the city council finds as follows:

- (1) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.
- (2) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.
- (3) The use will not adversely impact implementation of the comprehensive plan.
- (4) The user agrees to all conditions that the city council deems appropriate to establish the interim use. This may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the city to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.
- (5) There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.
- (6) The date or event terminating the interim use shall be set by the city council at the time of approval.

(c) *Application requirements.* Interim use permit applications shall be submitted to the director of planning on such form and accompanied by such information as required by LEC 105.12.240(a) and with the submission materials listed in LEC 105.12.250(b).

- (1) Additional application requirements. An application for an interim use permit shall include the following additional information:
 - a. A letter from the applicant explaining the proposal and stating the date or event that will terminate the use;
 - b. A signed consent agreement, subject to review and approval by the city council documenting:

1. That the applicant, owner, operator, tenant and/or user has no entitlement to future approval or reapproval of the interim use permit;
2. That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
3. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the city council attaches to the interim use permit.

(d) *Public hearing required.* The planning commission shall hold a public hearing on each complete application for an Interim use permit as provided in LEC 105.12.250. After the close of the hearing on a proposed interim use permit, the city planning commission shall consider findings and shall submit the same together with its recommendation to the city council.

(e) *Final decision by city council.* The city council shall make the final decision on an interim use permit after a public hearing by the planning commission. The city council may approve, approve with conditions, or deny the application.

(f) *Termination.* An interim use shall terminate on the happening of any of the following events, whichever occurs first:

- (1) The date or event stated in the permit;
- (2) Upon violation of conditions under which the permit was issued;
- (3) Upon a change in the city's zoning regulations which renders the use nonconforming; or
- (4) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

(g) *Revocation.* Failure to comply with any condition set forth in an interim use permit, or any other violation of this chapter, shall be a misdemeanor and shall also constitute sufficient cause for the termination of the conditional use permit by the city council following a public hearing conducted in accordance with LEC 105.12.250.

(h) *Renewal.* The following process may be used to renew an active interim use permit that is set to expire. Terminated or suspended interim use permits cannot be renewed unless the director of planning has received an application for and approved a one-time, 30-day extension to continue processing the renewal application.

- (1) *Application.* Application requirements for renewal of an existing interim use permit shall be the same as for a new application.
- (2) *Review.* Upon receiving a completed application for an interim use permit renewal, the director of planning shall send notice of the requested renewal to all property owners within 350 feet of the parcels containing the interim use. If any objections are raised within ten days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the director of planning shall prepare a resolution of approval outlining the conditions and stipulations of the renewal for consideration by the city council. The city council, as its discretion, may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.

(Code 2007, § 154.107; Ord. No. 08-085, 7-2-2013)

105.12.310 Appeals And The Board Of Adjustment

The board of adjustment is hereby established pursuant to this chapter and state law. The board of adjustment (which is the city council in accordance with LEC 3.08.100) shall have those powers and authority as provided by state law and as hereinafter provided for. The board of adjustment shall be formed and operate in conformance with LEC 3.08 and specifically with LEC 3.08.100.

(a) Powers of the board of adjustment.

- (1) *Review of administrative decisions.* The board of adjustment shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by such an administrative official charged with enforcing this chapter. Such appeal may be made by any person, firm or corporation aggrieved by an officer, department, board or bureau of the city.
- (2) *Variances.* The board of adjustment shall also have the power to grant variances to the provisions of this chapter under certain conditions. The conditions for the issuance of a variance are as indicated in LEC 105.12.320. No use variances (uses different than those allowed in the district) shall be issued by the board of adjustment.

(b) Procedure for appeals.

- (1) *Filing of appeals.* All appeals to the board of adjustment shall be in writing and filed with the office of the city clerk within 14 calendar days of

the date of mailing of the notice of the order, requirement, decision or determination from which the appeal is made.

- (2) *Hearings.* The board of adjustment shall conduct a hearing regarding all appeals in accordance with LEC 105.12.250(c)(2).
- (3) *Notice.* Written notice of the hearing shall be provided to the parties to the hearing and mailed not less than 14 days prior to the hearing.
- (4) *Orders.* The board shall, within a reasonable time, make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. The board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made. The reasons for the decision of the board of adjustment shall be stated in the order. A majority vote of the board of adjustment shall be necessary to reverse any decisions of an administrative office of the city or to decide in favor of the applicant.

(Code 2007, § 154.108; Ord. No. 08-085, 7-2-2013)

105.12.320 Variances

- (a) *In general.* The board of adjustment shall have the power to grant variances to the provisions of this chapter under the following procedures and standards: A request for a variance from the literal provisions of this chapter may be granted in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. All requests for variances shall be reviewed in accordance with the required findings listed in subsection (f) of this section.
- (b) *Use variances prohibited.* A variance shall not be granted for any use that is not a listed permitted or conditional use under this chapter for property in the zone where the property is located.
- (c) *Application requirements.* Variance applications shall be submitted to the director of planning on such form and accompanied by such information as required by LEC 105.12.240(a) and with the submission materials listed in LEC 105.12.240(b).
- (d) *Hearing requirements.* The planning commission shall hold a public hearing on each complete application for a variance as provided in LEC 105.12.250. After the close of the hearing on a proposed variance, the city planning commission shall consider findings and shall submit the same together with its recommendation to the board of adjustment.

- (e) *Board of adjustment action.* The board of adjustment shall receive the recommendation of the planning commission and shall take final action on the variance request. All findings and decisions of the board of adjustment concerning variances shall be final.
- (f) *Required findings.* Any action taken by the board of adjustment to approve or deny a variance request shall include the following findings:
 - (1) *Practical difficulties.*
 - a. A variance to the provision of this chapter may be granted by the board of adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.
 - b. Definition of practical difficulties. The term "practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.
 - (2) *Unique circumstances.* The problem for the landowner/applicant which the proposed variance is intended to correct must be due to circumstances that are unique to the property in question and that were not created by the land owner/applicant.
 - (3) *Character of locality.*
 - a. The proposed variance will not alter the essential character of the locality in which the property in question is located.
 - b. Definition of locality. For the purposes of this subsection, the term "locality" shall be defined as all that property within 350 feet of the property proposed for the variance; however, in all events, it shall include all parcels abutting the affected parcel, including those immediately across a public street, alley or other public property.
 - (4) *Adjacent properties and traffic.* The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.
- (g) *Conditions.* The planning commission may recommend and the board of adjustment may impose such restrictions and conditions upon the property that is the subject of the variance as may be necessary to comply with the standards established by this chapter or to reduce or minimize the effect of such variance

upon other properties in the neighborhood and to better carry out the intent of the variance.

- (h) *Effect of denial.* No application by a property owner for a variance shall be submitted to the board of adjustment within a six months period following a denial of such a request unless, in the opinion of the board, new evidence of change in circumstances warrant it.
- (i) *Expiration.* A variance shall be deemed to authorize only one particular use and shall expire if work does not commence within 12 months of the date of granting such variance, except when:

- (1) *Initial requests for an extension of one year or less.*

- a. A written request for an extension of one year or less is received by the city at least 30 days prior to the expiration of the initial variance. In order to make the request, the applicant shall submit an application on a form provided by the city and pay an application fee in the amount set forth in the city's fee schedule. The request for the extension must include facts demonstrating that a good faith attempt has been made by the applicant to complete or utilize the variance that was granted.
 - b. The planning director shall review the request and either approve or deny the extension. The planning director's decision may be appealed to the board of adjustment pursuant to LEC 105.12.310.

- (2) *Subsequent requests for extensions and extensions for more than one year.*

- a. Subsequent requests for extensions and requests for an extension of more than one year must be made to the city at least 30 days prior to the expiration of the variance. In order to make the request, the applicant shall submit an application on a form provided by the city and pay an application fee in the amount set forth in the city's fee schedule. The request for the extension must include facts demonstrating that a good faith attempt has been made by the applicant to complete or utilize the variance that was granted.
 - b. The planning commission shall review the request and shall make a recommendation to the city council as to whether the city council should approve or deny the request.

- (j) *Revocation.* The board of adjustment may revoke a variance if any conditions established by the board as part of granting the variance request are violated.

(Code 2007, § 154.109; Ord. No. 08-085, 7-2-2013; Ord. No. 08-158, 11-15-2016)

105.12.330 Violations And Enforcement

- (a) *Enforcing officer.* It shall be the duty of the planning director to cause the provisions of this chapter to be properly enforced.
- (b) *Violations.* Any person who shall violate or refuse to comply with any of the provisions of this chapter shall be subject to the enforcement and penalty provisions of LEC 1.04.230.
- (c) *Investigation and administrative enforcement.*
 - (1) *Investigation of violation.* The director of planning shall investigate alleged violations of this chapter. Investigation of a violation may require accessing the property where the violation is alleged to have occurred. The director of planning shall notify the landowner of the need for investigation and make a reasonable attempt to gain permission from the landowner for access to the property and structures for investigative purposes. If the landowner is unresponsive or access to the property is specifically denied by the landowner, the director of planning shall obtain a judicial order prior to entering upon the property. Entering a structure for investigative purposes shall occur only upon permission of the landowner or issuance of a judicial order.
 - (2) *Administrative enforcement.*
 - a. *Notice of violation.* Whenever in the judgment of the director of planning a determination is made upon investigation that a particular permit holder has not complied with this chapter, the director of planning shall issue a written notice of violation to the owner of the record and require him to complete the work.
 - b. *Cease and desist order.* Upon investigation, if the director of planning has probable cause to believe a violation of this chapter has occurred and that immediate stoppage of work is necessary to minimize harm caused by such violation, the director of planning may issue a cease and desist order to halt the progress of any property modification. When any work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.
- (d) *Administrative fee for enforcement.* The director of planning shall charge an administrative fee, as set by resolution of the city council, to compensate for time spent involving the investigation and prosecution of violations, and including any expenses incurred during the investigation.
- (e) *After the fact applications and fees.* Any person making application for a permit

after the commencement of work requiring a permit, shall be charged an additional administrative fee. In the event the application for a permit is denied or the action permitted does not include all or part of the work commenced prior to approval of said permit, the director of planning shall require correction and/or restoration of the concerned property to its original state, including removal of structures or improvements.

(Code 2007, § 154.110; Ord. No. 08-085, 7-2-2013)

ARTICLE VI NONCONFORMING USES, BUILDINGS AND STRUCTURES

105.12.340 Application

105.12.350 Nonconforming Uses, Buildings And Structures

105.12.340 Application

- (a) *Application, generally.* Except as provided in this chapter, no building or structure shall be erected, moved, altered, or extended and no land, building, or structure or part of the building, shall be occupied or used unless in conformity with regulations specified in this chapter for the district in which it is located.
- (b) *Application to existing structures.* This chapter shall not apply to existing buildings and structures, nor to the existing use of any structure, or land to the extent of the use on the effective date of the ordinance from which this chapter is derived. This chapter shall apply to any change in use, to any intensification of the nonconforming use, to any movement of a building or structure, or to any expansion of a structure which may result in the generation of additional sewage for on-site disposal.
- (c) *Use defined.* For the purpose of this chapter, the term "use" shall mean:
 - (1) Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or
 - (2) Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure, or on a tract of land.

(Code 2007, § 154.150; Ord. No. 2012-062, 9-18-2012)

105.12.350 Nonconforming Uses, Buildings And Structures

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

Nonconforming building or nonconforming structure means any building or structure lawfully existing on the effective date of the ordinance from which this

chapter is derived or any amendment to this chapter, which building or structure does not conform with the regulations, including dimensional standards, for the district in which it is located after the effective date of the ordinance from which this chapter is derived or the amendment.

Nonconforming use means any lawful use of land or any lawful use of a building or structure existing on the effective date of the ordinance from which this chapter is derived, or any amendment to this chapter which use does not conform with the regulations for the district in which it is located after the effective date of the ordinance from which this chapter is derived or the amendment.

- (b) *Preservation of nonconforming uses.* Except as provided in this chapter, the lawful use of land or the lawful use of a building or structure existing on the effective date of the ordinance from which this chapter is derived or on the effective date of any amendment to this chapter may be continued through repair, replacement, restoration, maintenance, or improvement, although the use does not conform to the provisions of this chapter, except as otherwise provided in this section. The continuation of the nonconforming use does not include expansion, except as otherwise permitted by this section.
- (c) *Preservation of dimensionally substandard buildings or structures.* Except as provided in this chapter, buildings structures lawfully existing on the effective date of the ordinance from which this chapter is derived or on the effective date of any amendment to this chapter may be maintained although the building or structure does not conform to the dimensional standards of this chapter. However, any such building or structure shall not be altered or improved beyond normal maintenance, except that any lawful dimensional substandard residential building, accessory building, or structure may be altered or improved if the existing substandard dimension relates only to setback requirements and does not exceed the ten percent of the minimum setback requirements. Additionally, the alteration or improvement shall conform to all of the provisions of this chapter and shall not increase the existing substandard dimensions.
- (d) *Unlawful uses, buildings, and structures.* No unlawful use of property existing on the effective date of the ordinance from which this chapter is derived or any amendment to this chapter, nor any building or structure which is unlawfully existing on the effective date shall be deemed a nonconforming use or a nonconforming building or structure.
- (e) *Permit holders and permit applicants.* Any nonconforming structure that is ready for or under construction on the effective date of the ordinance from which this chapter is derived or any amendment to this chapter may be completed and occupied in accordance with the requirements of any valid building permit issued for the construction prior to the effective date.
- (f) *Change from one nonconforming use to another.* A nonconforming use may be changed only to a use permitted in the district in which it is located; except that if

no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification, and provided the change is approved by the board of adjustment and appeals as provided in this chapter. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

- (g) *Change of use with approval of the board of adjustment.* A nonconforming use all or partially conducted in a building or buildings, may be changed to another nonconforming use only upon determination by the board of adjustment, after a public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative detriment, the board of adjustment shall take into consideration, among other things: traffic generated; nuisance characteristics, such as emission of noise, dust, and smoke; fire hazards; and hours and manner of operation.
- (h) *Restoration of nonconforming building or structure.* A nonconforming use, building or structure which is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, may be restored and the occupancy or use of the building, structure, or part of the structures which existed at the time of the partial destruction, may be continued or resumed. In this case, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a building permit to mitigate created impacts on the adjacent property or water body.
- (i) *Abandonment of use.* When any nonconforming use of land or of a building or structure is discontinued for a period in excess of one year, the land, building, or structure shall not be allowed to continue as a nonconforming use and any subsequent use or occupancy of the land, building or structure shall be a conforming use or occupancy.

(Code 1997, § 300.05; Code 2007, § 154.151; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-157, 11-5-2016)

ARTICLE VII GENERAL REGULATIONS

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105.12.360 Purpose

The purpose of this article is to establish regulations for activities that may occur in many zoning districts or in association with a variety of land uses, including parking, signage, and activities within yards, to promote the orderly development or use of land and minimize conflicts among land uses.

(Code 2007, § 154.200; Ord. No. 08-078, 5-7-2013)

105.12.370 Applicability

The provisions of this article shall be applied to all zoning districts and shall be in addition to the requirements in any specific zoning district. A permit shall not be issued unless all applicable general regulations are met.

(Code 2007, § 154.201; Ord. No. 08-078, 5-7-2013)

105.12.380 Permits Required

Permits are required for all changes in use and all development activities, with the exception of signs, which shall be governed by the specific requirements of LEC 105.12.430 as may be applicable.

(Code 2007, § 154.202; Ord. No. 08-078, 5-7-2013; Ord. No. 08-152, 10-1-2016)

105.12.390 Essential Services

Essential services, as defined by this article, are permitted in any district, provided that a site plan for any new or expanded service facility is filed with the planning department. The city council may require site plan review of large facilities, upon the recommendation of the planning director.

(Code 2007, § 154.203; Ord. No. 08-078, 5-7-2013)

105.12.400 Fencing Regulations

- (a) *Purpose.* The purpose of this article is to provide for the regulation of fences in the city and to prevent fences from being erected that would be a hazard to the public, an unreasonable interference with the uses and enjoyment of neighboring property or are incompatible with existing uses and other zoning restrictions.

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

Permanent fence means fences that are installed in a fixed or enduring manner that are not intended for a seasonal or temporary purpose.

Temporary fence means fences that are installed and removed on a seasonal basis, such as snow fences, garden fences and seasonal recreational fences, such as hockey boards.

- (c) *Permit required.*

(1) *Permanent fence.* No permanent fence shall be erected without first obtaining a fence permit. Application shall be made to the planning director. The fee shall be established by the city's fee schedule. The planning director is authorized to issue a fence permit if the application indicates that the fence will be in compliance with this section. The board of adjustment and appeals shall hear and decide appeals when it is alleged that the planning director was in error. The appeals shall follow the procedure outlined in LEC 3.08.010.

(2) *Temporary fence.* Temporary fencing that complies with subsection (f) of this section and all other applicable provisions of this article shall be exempt from permit requirements.

- (d) *General requirements.* All fences erected in the city are subject to the following requirements:

(1) *Maintenance.* All fences shall be properly maintained with respect to appearance and safety. Fences that remain in a state of disrepair for an extended period of time shall constitute a nuisance per LEC 9.28.030.

(2) *Face of fence.* The finished side of any fence or wall must face abutting property or street rights-of-way.

(3) *Fence materials.* Permitted fence materials shall be limited to brick, stone, wood, wrought iron, vinyl, composite material, steel, aluminum, chain link, and in cases of temporary fencing only, materials that are consistent with temporary fencing as regulated under subsection (f) of this section.

(4) *Traffic obstruction.* No fence or wall shall obstruct a motorist's or a pedestrian's safe view from the driveway or street.

(5) *Location.*

- a. Fences may be installed on any portion of a lot subject to the height restrictions of subsection (e) of this section and may be installed along or within one foot of property lines provided the

adjacent property agrees, in writing, that such fence may be erected on or within one foot (12 inches) of the boundary lines of the respective properties. Any portion of the fence and all footing material shall not encroach on the neighboring property.

- b. All pertinent property pins shall be visible upon inspection for fences installed within one foot (12 inches) of a property boundary.
- c. In the case of a dispute, the city may require a survey to establish the boundary line of a property.

(6) *Easement encroachment.* An easement encroachment agreement must be approved by the planning director or his designee after review and approval from the city engineer or his designee, along with a fence permit, for any fence that will be installed within a city easement.

(7) *Swimming pools.* All swimming pools shall be enclosed with required fencing per LEC 105.08.160.

(e) *Fence height and design.*

- (1) *Fences within front and side (corner) yards.* Any fence within a front or side (corner) yard setback or any required setback from a public right-of-way may not exceed 42 inches in height and must be 50 percent open to air and light.
- (2) *Residential and mixed-use districts.* No fence shall exceed six feet in height, and shall be subject to the design requirements of subsection (e) (3) of this section.
- (3) *Commercial and industrial districts.* No fence or wall shall exceed eight feet in height. Fences that exceed eight feet in height require a conditional use permit.

(f) *Temporary fences.*

(1) *Height and performance.* Temporary fences shall comply with the fence height standards of subsection (e) of this section. Temporary fences shall be at least 40 percent open to air and light. If unable to be at least 40 percent open to air and light, temporary fences shall not exceed 42 inches in height.

(2) *Duration and limitation.*

- a. No snow fence or posts shall be installed prior to October 1, and must be removed prior to April 15.
- b. Seasonal recreational fencing intended for winter sports, such as hockey or broomball shall not be installed prior to October 1, and

must be removed prior to April 15.

(3) *Location.* Snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the public works director.

(g) *Prohibited fencing.* Barbed wire and electric fencing are prohibited in platted areas.

(h) *Agricultural exemption.* Fences constructed on parcels in excess of five acres for the keeping of horses; and fences constructed on parcels in excess of ten acres are specifically exempted from the provisions of this section. Any such agricultural fencing shall be at least 75 percent open to air and light.

(Code 2007, § 154.205; Ord. No. 08-086, 7-16-2013; Ord. No. 08-140, 7-5-2016; Ord. No. 08-154, 10-4-2016)

105.12.410 Off-Street Parking

(a) *Purpose.* The intent of this section is to prevent or alleviate congestion and promote the public safety and welfare by establishing minimum requirements for off-street parking, and requiring that parking areas are located and constructed in a manner that provides for optimum visibility to vehicles entering and exiting said parking area, accessibility, and safety. It is the responsibility of property owners to provide adequate parking to meet their specific needs.

(b) *Applicability.* Off-street parking in accordance with this section shall be provided for all new uses and all expansions of existing uses in all districts. Parking requirements may be waived in the Village Mixed-Use District (VMX), recognizing the availability of on-street and shared parking facilities.

(c) *Location.* All required off-street parking facilities shall be located outside of any street right-of-way, and as follows:

(1) Spaces accessory to one- and two-family dwellings shall be located on the same lot as the principal use served. Spaces within garages are counted toward the required number of spaces.

(2) Spaces accessory to multiple-family dwellings and nonresidential uses shall be located on the same lot as the principal use served or within 400 feet of the main entrance to the principal building served.

(3) Off-street parking located elsewhere than on the lot where the principal use being served is located shall be under the same ownership and control, either by deed or long-term lease, as the principal use. The owner of the principal use must file a recordable document with the city requiring

permanent provision of off-street parking during the existence of the principal use.

- (4) Off-street surface parking areas containing more than four parking spaces shall be located a minimum of 20 feet from the boundary of any adjacent lot zoned or used for residential purposes, with the exception of lots zoned Village Mixed-Use (VMX).
- (5) Other parking in residential areas. Parking in residential areas (off-street and on-street) shall be limited to the use of the residents of those homes and their guests.
- (6) Off-street parking in commercial areas. Off-street surface parking areas in commercial districts shall be located in a manner consistent with the setback requirements in LEC 105.12.930.
- (7) Required off-street parking spaces shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or rent.

(d) *Parking area design and maintenance.*

- (1) *Access to parking spaces.* Each required off-street parking space shall open directly to an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to the parking space, as shown in Table 5-1, Minimum Parking Space and Aisle Dimensions, except where accessory to residential uses of up to four units.
- (2) *Maneuvering area.* All parking areas except those serving one- and two-family dwellings on local streets shall be designed so that cars shall not be required to back into the street. If deemed necessary for traffic safety, turn-around areas may be required.
- (3) *Surfacing and drainage.* All off-street parking areas shall be surfaced as follows:
 - a. Single-family and two-family dwellings shall provide a durable surface with suitable drainage.
 - b. In all residential, commercial and mixed-use districts, all areas intended to be utilized for parking space for five or more vehicles and associated driveways shall be paved with a durable surface, including, but not limited to, hot asphalt, bituminous or concrete.
 - c. In industrial districts, all areas intended to be utilized for parking space and driveways shall be surfaced with materials suitable to control dust and drainage. Plans for surfacing and drainage for nonresidential uses shall be submitted for review and the final plan shall be subject to written approval.

- d. Storage areas for heavy construction equipment that would damage the pavement may be exempt from the paving and surfacing requirement with an acceptable surface approved by the city engineer.
- e. Farm dwellings and farm operations are exempt from the paving requirement.
- f. City parks shall be exempt from the parking requirement if approved by the city council.

(4) *Marking of parking spaces.* All parking areas containing five or more spaces or containing angled parking shall be marked with painted lines at least four inches wide. Such markings shall be maintained in a clearly legible condition.

(5) *Curbing.* All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five feet from the side property line or a barrier of normal bumper height not less than three feet from the side property line.

(6) *Landscaping and screening.* Parking areas shall be screened and landscaped as provided in LEC 105.12.480.

(7) *General maintenance.* Parking areas and driveways shall be kept free of dirt, dust, debris and waste. In winter months, required parking areas shall be cleared of snow and ice within a reasonable time.

(8) *Accessible parking.* Accessible parking spaces for the disabled shall be provided as required by the International Building Code.

(e) *Dimensions.* The minimum dimensions for required parking spaces are shown in Table 5-1, Minimum Parking Space and Aisle Dimensions and Figure 5-1, Minimum Parking Dimensions Diagram.

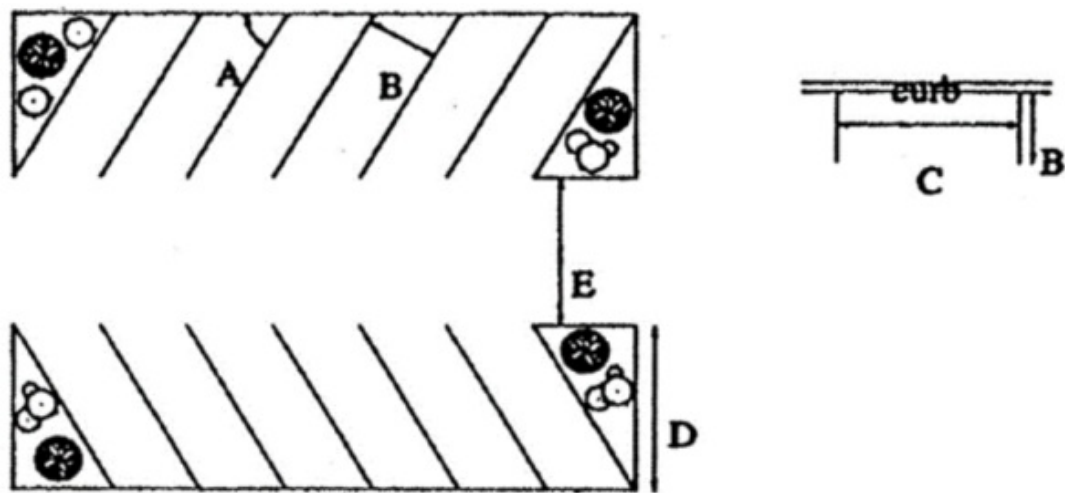
Table 5-1: Minimum Parking Space and Aisle Dimensions

<i>Angle (A)</i>	<i>Width (B)^a</i>	<i>Curb Length (C)</i>	<i>Stall Depth (D)^b</i>	<i>1 Way Aisle Width (E)</i>	<i>2-Way Aisle Width (E)</i>
0 (Parallel)	9'	22'	8'6"	14'	22'
44°	9'	12'	18'9"	14'	22'
60°	9'	9'10"	19'10"	18'	22'
90°	9'	8'6"	18'	20'	22'

a. For parking areas containing more than ten parking spaces, compact spaces may account for up to 20 percent of the total parking area required. They may be reduced in size to a width of eight feet and a stall depth of 12 percent less than (D) above, and must be grouped and signed appropriately

b. Parking spaces that use an appropriately sized curb overhang over a landscaped island or buffer may be reduced in depth by 1 1/2 feet (1' 6"). A concrete curb or other means shall be provided to prevent parked vehicles from damaging plant materials.

Minimum Parking Dimensions Diagram



(f) *Parking requirements.* Accessory, off-street parking shall be provided as specified in Table 5-2, Specific Minimum Off-Street Parking Requirements, except as otherwise specified in this section.

- (1) In addition to the requirements in Table 5-2, one parking space shall be provided for each commercial vehicle or vehicle necessary for the operation of the use that is maintained on the premises.
- (2) Parking spaces for uses with multiple components, such as hotels with dining and conference facilities, shall be based on the sum of the parking requirements of the separate components. Shared parking standards may be used where applicable.
- (3) Proof of parking. The planning commission may allow parking requirements for a particular use to be relaxed or lessened in response to an expected demand that is lower than the required standard in this section, provided that one of the following conditions exists:
 - a. Sufficient open area is set aside on the parcel to meet the required standard, if determined to be necessary at a later date.

- b. If parking will be needed less than 25 percent of the time during typical hours of use, on-street parking accessible by sidewalk within two blocks of the site may be used in lieu of required off-street parking.
- (4) Where a parking study is required, a qualified transportation engineer or transportation planner shall perform the study. The study shall contain information on the anticipated number of employees, customers, visitors, clients, shifts, events, or deliveries to the use, and may refer to other studies or similar situations elsewhere.
- (g) *Shared parking.* Joint use of required parking spaces is encouraged where two or more uses on the same or adjacent sites are able to share the same parking spaces because their parking demands occur at different times. The applicants must submit analysis showing that peak parking times of the uses will occur at different times and the parking area will be adequate for both uses. A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses shall be submitted.
- (h) *Truck parking in residential areas.* No commercially licensed trailer shall be parked or stored in a residential district except when loading, unloading, or rendering a service. Recreation vehicles and pickups are not restricted by the terms of this provision.

Table 5-2: Specific Minimum Off-Street Parking Requirements

<i>Use</i>	<i>Minimum Parking Requirement</i>	<i>Notes</i>
Residential Uses		
Household Living		
Single-family detached dwelling	2 spaces per dwelling unit	
Two-family dwelling	1 space per 1-bedroom unit two spaces per 2-bedroom or larger unit. Single-family attached dwellings shall provide an additional ten percent of parking spaces for visitor parking. Multifamily dwellings shall also provide one visitor space per four units	No fee shall be charged
Single-family attached dwelling		
Multifamily		

dwelling	for required spaces	
Senior (elderly) housing	1 space per dwelling unit	If senior housing may be converted to general housing in the future, proof of additional parking shall be required
Secondary dwelling	1 space per secondary dwelling unit	
Live-work unit	2 spaces per dwelling unit	At least one of the required spaces shall be accessible for client parking
Mobile home park	2 spaces per dwelling unit	
Group Living		
Group home, group residential facility, halfway house, congregational housing	1 space per employee on the largest shift plus one visitor space for every four residents based on capacity	
Semi-transient accommodations	1 space per bedroom, plus one space for each full-time staff equivalent	Parking study required
Public and Civic Uses		
Cemetery	As determined by the planning director	
College or university, other adult learning	To be determined by the planning director based on parking study	Parking study required

center		
Community services	Parking equal to 30 percent of the capacity of persons or as determined by the planning director based on parking study	
Day care center (see under accessory uses for family day care)	1 space per employee on largest shift plus one space per seven students based on capacity; or one space per ten students if an off-street drop-off and pick-up space is provided	
School, public or private	1 space per staff member plus one space per five students of legal driving age based on design capacity	Existing schools not meeting this standard may be required to develop a parking management plan, but shall not be required to add the minimum number of spaces
Public assembly	1 space per each four seats based on design capacity	
Religious institution, place of worship	1 space per each six seats or ten feet of pews in the main assembly hall	Existing institutions not meeting this standard may be required to develop a parking management plan, but shall not be required to add the minimum number of spaces
Services		
Business center	Total of parking requirements for individual uses, excepting any that meet the shared parking requirements in LEC 105.12.410(g)	
Commercial kennel, commercial stable	1 space per employee on the largest shift plus one space per six animals	

Communication services	1 space per 400 square feet of gross floor area, plus one space per company vehicle stored on the site	
Educational services	1 space per staff member plus one space per five students of legal driving age based on design capacity	
Financial institution	1 space per 100 square feet of usable floor area	
Funeral home	1 space per 100 square feet of floor area in the main assembly room plus one space per staff member	
Transient accommodations, lodging	1 space per guest room, plus additional space for meeting or restaurant facilities	Meeting and restaurant facilities may require additional parking, based on square footage of each use as defined in this table
Medical facilities	5 spaces per medical professional, or one space per 200 square feet of gross floor area	
Membership organization (clubs, lodges, etc.)	1 space per 300 square feet of gross floor area	
Nursing and personal care	1 space for each four beds, plus one space per employee on the largest work shift	
Offices	3 spaces per 1,000 square feet of gross floor area	
Personal services	1 space per 300 square feet of gross floor area	
Repair and maintenance shop	1 space per 400 square feet of gross floor area	
Self-		The apron in front of the

service storage facility	1 space per 300 square feet of office or sales area	storage units shall be wide enough for two cars to pass
Trade shop	1 space per 300 square feet of office or sales area, plus one space per 3,000 square feet of storage area	
Transportation services	1 space per 300 square feet of office or sales area, plus one space per vehicle kept on premises	
Veterinary service	3 spaces per veterinarian, or one space per 200 square feet of gross floor area	
Food Services		
Drinking and entertainment	1 space per three customer seats or each 100 square feet of interior space (the greater), plus one space per 200 square feet exterior seating area.	
Drive-in restaurant, fast food restaurant, standard restaurant	1 space per three customer seats or each 100 square feet of interior space (the greater), plus one space per 200 square feet exterior seating area. Drive-throughs shall provide queuing space for at least three vehicles in advance of the menu board and three vehicles between the menu board and pick-up window	
Sales of Merchandise		
Garden center, building supplies sales	1 space per 250 square feet of gross floor area plus one space per 2,000 square feet of outside sales or display area	
Furniture and appliance sales	1 space per 800 square feet of gross floor area	
General retail	1 space per 250 square feet of gross floor area	Includes any retail uses not specifically listed in this table
Shopping	1 space per 250 square feet of gross floor	Shared parking provisions (LEC

g center	area	105.12.410(g)) are encouraged to be used where applicable
Wayside stand	1 space per 400 square feet sales area	Spaces need not be paved, but shall be adequately separated and screened from the street and adjacent properties, as determined by the planning director
Wholesaling	1 space per 250 square feet of indoor sales area plus one space per 2,000 square feet of storage area	
Automobile/Vehicular Uses		
Automobile maintenance services, commercial vehicle repair, gas station	1 space per 250 square feet of gross floor area used for sales or customer service plus two spaces per service bay	Service bay shall not be counted as a parking space
Automobile parts/supply	1 space per 250 square feet of indoor sales area plus one space per 2,000 square feet of storage area	
Automobile rental	1 space per 250 square feet of gross floor area plus adequate storage space for rental vehicles maintained on site	
Car wash	1.5 spaces per bay, plus four stacking spaces per bay, plus one space per employee on the largest shift	
Vehicle sales and storage lots	1 space per 250 square feet of indoor sales area plus one space per 2,000 square feet of outside sales or display area and one space per 2,000 square feet of storage area	

Outdoor Recreation Uses		
Campgrounds and trailering	1 space per site, plus spaces required for other uses	
Golf course	5 spaces per hole plus additional space for meeting or restaurant facilities	
Marina	As determined by the planning director	Parking study may be required for large or multiple-use facilities
Outdoor entertainment	As determined by the planning director	
Outdoor recreation facility	1 space per three persons based on maximum occupancy load, plus one space per employee on the largest shift or as determined by parking study	Parking study may be required for large or multiple-use facilities
Parks and open areas	No requirement	
Restricted recreation	As determined by the planning director	Parking study may be required
Swimming pool	1 space per 150 square feet of pool area	
Indoor Recreation/Entertainment		
Adult establishment	1 space per 250 square feet of gross floor area	
Indoor athletic facility	1 space per 250 square feet floor area plus two spaces per tennis or racquet games court and one space per 150 square feet of pool area	
Indoor recreation	Bowling alleys: five spaces per lane. Other facilities: one space per three persons based on maximum capacity	
Agricultural and Related Uses		

Agricultural production and services	No requirement	
Agricultural support	1 space per 300 square feet of indoor sales or office area plus one space per 1,000 square feet of outside sales or display area and one space per 2,000 square feet of storage area	
Forestry operations	As determined by the planning director	
Production, Processing and Storage		
Non-production industrial, light industrial, heavy industrial	1 space per 1,000 square feet gross floor area up to 20,000 square feet plus one space per 2,000 square feet in excess of 20,000 square feet, or per five regular employees, whichever is greater	Additional parking may also be required for office or retail space, as specified in this table. Includes other industrial uses largely carried on in enclosed buildings and not individually listed
Motor freight and warehousing	1 space per 300 square feet of office or sales area, plus one space per 3,000 square feet of storage area	
Landfill, resource extraction, salvage/recyclable center	2 spaces per three employees on the largest shift, based on maximum planned employment	Includes other industrial uses largely carried on outdoors
Utilities, Transportation and Communications		
Air transportation	As determined by the planning director	
Broadcasting or		

communi cation tower	No requirement	
Essential services	As determined by the planning director	
Local transit, railroad transport ation	2 spaces per three employees on the largest shift, based on maximum planned employment	
Accessory uses		
Animals, domestic	No requirement	
Home occupati on	No requirement unless specified in conditional use permit	
Bed and breakfast	1 space per guest room in addition to dwelling unit requirements	
Family day care, group family day care	1 space per employee not residing on the premises plus one drop-off space	
Kennel, private; stable, private	No requirement	
Interim Uses		
Interim use	As determined by the planning director	

(Code 2007, § 154.210; Ord. No. 08-078, 5-7-2013; Ord. No. 08-152, 10-1-2016)

105.12.420 Off-Street Loading Areas

Off-street loading space shall be provided in all districts for any nonresidential use which will involve the receipt or distribution of materials or merchandise by trucks or similar vehicles and has a gross floor area of 5,000 square feet or more, in accordance with the following standards. Off-street loading area requirements may be waived in the Village

Mixed-Use District (VMX).

- (a) *Number.* For facilities with less than 20,000 square feet gross floor area, a designated loading zone may be provided on-site, rather than constructing a loading berth. For facilities with 20,000 square feet gross floor area or greater, one off-street loading berth shall be provided every 30,000 square feet gross floor area or fraction thereof.
- (b) *Location.* All required loading berths shall be off-street. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way and at least 50 feet from a residential district unless within a building. Loading berths shall not occupy the required front yard setback.
- (c) *Size.* Unless otherwise specified in this chapter, a required loading berth shall be not less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle maneuvering space.
- (d) *Access.* Each required loading berth shall be located with appropriate means of vehicle access to a street or public alley in a manner which will least interfere with traffic. Driveway design is specified in LEC 105.12.400.
- (e) *Surfacing.* All loading berths and access ways shall be improved with a durable material to control the dust and drainage.
- (f) *Accessory use.* Any space allocated as a loading berth or maneuvering area in accordance with this section shall not be used for the storage of goods, inoperable vehicles or required off-street parking.

(Code 2007, § 154.211; Ord. No. 08-078, 5-7-2013)

105.12.430 Sign Regulations

- (a) *Purpose and intent.* The purpose of this section is to provide standards to safeguard life, health, and property and to promote the public welfare by regulating the design, area, number, construction, location, and installation of all signs referred to hereunder. The city council and planning commission of the city find that the visual environment has an effect on the welfare of the citizens of the city and that careful control of signage can protect and enhance the community. To carry out this general purpose, the regulations set forth herein are intended to:
 - (1) Protect the public from hazards that result from signs which are structurally unsafe, obscure the vision of motorists and/or compete or conflict with necessary traffic signals and warning signs.
 - (2) Preserve the land value of private property by ensuring the compatibility of signs with nearby land uses.
 - (3) Foster high quality commercial and industrial development and to

enhance economic development of existing businesses and industries by promoting reasonable, orderly, attractive and effective signs that meet the need for business identification, advertising and communication.

- (4) Encourage creative and well-designed signs that contribute in a positive way to the community's visual environment, express local character and help develop a distinctive image in the city. When appropriate, signage is encouraged to utilize design elements that are consistent with the Lake Elmo Branding and Theming Study.
 - (5) Recognize that signs are a necessary form of communication and provide flexibility within the sign review and approval process to allow for unique circumstances.
 - (6) Provide applicants with clear and consistent rules and regulations.
- (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:

Abandoned sign means any sign remaining in place which for a period of 90 consecutive days or more no longer advertises or identifies an ongoing business, product, service, idea, or commercial activity located on the site or has not been properly maintained in accordance with the requirements of this section.

Ancillary sign means a wall sign separate from and subordinate in area to the principal sign, identifying generic services, goods or departments in the building, such as pharmacy, optical, auto repair, or garden center, but not including the identification of brand names.

Attention-attracting object means any streamer, pinwheel, pennant, flag, propeller, inflatable sign, statuary, tethered balloon, bunting, beacon, or other artificial device, figure, shape, color, sound, light or exhibit, whether live, animated, or still, that is intended to attract attention to the use or business being conducted on the site. Attention-attracting object does not include the flag of any governmental country.

Awning means a roof-like cover consisting of fabric, plastic or structural protective cover that projects from the wall of a building which generally serves the purpose of shielding a doorway, entrance, window, or outdoor service area from the elements or to provide decorative distinction.

Banner means a suspended sign made of a flexible material such as canvas, sailcloth, plastic, paper, or fabric of any kind, and intended to be displayed on a temporary basis. A decorative banner is a banner containing no message or logo that is displayed for the purpose of adding color or interest to the surroundings or

to the building to which it is attached. A flag or canopy shall not be considered a banner.

Beacon means a stationary or revolving light that flashes or projects illumination, single color or multicolored, in any manner that is intended to attract or divert attention.

Business opening sign means a temporary sign displayed prior or in addition to permitted permanent signs to promote the opening of a new business, a change of name, or a change of ownership.

Canopy means a detachable, roof-like cover, supported from the ground or deck, floor or walls of a structure, for protection from the sun or weather.

Changeable copy sign means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged manually without altering the face or the surface of the sign and on which the message changes less than eight times a day and less than once per hour. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall not be considered a changeable copy sign.

Commercial message means a message that directs attention to or acts as advertising for a business, commodity, product, service, or form of entertainment or tends to encourage the occurrence of a commercial transaction related thereto.

Comprehensive sign plan means a complete signage plan for a building or lot that has been approved by the city.

Construction sign means a sign identifying individuals or companies involved in design, construction, wrecking, financing, or development of a building or lot upon which the sign sits and/or identifying the future use of buildings or lot upon which the sign sits.

Copy means words, letters, numbers, figures, designs, or other symbolic representations incorporated into a sign.

Directional sign, on-premises, means a sign without commercial message erected for the purpose of indicating the required or preferred direction of vehicular, bicycle, or pedestrian traffic on private property, including, but not limited to, "no parking," "entrance," "exit only," "loading only," and other similar signage.

Directional sign, off-premises, means any sign without commercial message that is displayed for the purpose of informing people of or guiding people to a

particular place for a specified event, including, but not limited to, an open house, garage sale, estate sale or other similar event.

Directly illuminated sign means any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

Directory sign means a sign which serves as a common or collective identification for a group of persons or businesses operating on the same lot. Such a sign commonly lists the tenants, occupants, floor plan, addresses or suite numbers of an office complex, shopping center, or residential building complex.

Election campaign period means a period prior to a general election starting on August 1 until ten days following the general election, or a period prior to a special election starting 13 weeks prior to the special election until ten days following the special election.

Electronic variable message sign means a changeable copy sign or portion thereof which can be electronically changed or rearranged without altering the face or the surface of the sign, not including signage or portions thereof displaying time and temperature.

Facade means any separate face or surface of a building, including parapet walls, and roof surfaces or any part of a building which encloses or covers unusable space. Where separate facades are oriented in the same direction, or where the inside angle at the intersection of two surfaces is greater than 135 degrees, they are to be considered as part of a single facade.

Flag means a device generally made of flexible material, such as cloth, paper, or plastic, and displayed from a pole, cable or rope. It may or may not include copy.

Frontage means the boundary of a lot that abuts a public street.

Garage sale sign means a sign advertising the sale of personal property including estate sales, yard sales or rummage sales used to dispose of personal household possessions.

Government sign means any sign erected by the city or any other governmental entity in the exercise of official government business and authority.

Ground sign means any freestanding sign that is supported by structures or supports in or upon the ground and independent of support from any building. A single sign structure having two identical or nearly identical faces back to back shall constitute a single sign. For the purposes of this definition, a ground sign is

intended to refer to a primary, permanent, ground-mounted sign, not a temporary sign or sign that is ancillary to the primary sign, such as a directional sign or portable sign.

Hanging sign means a sign that is suspended from the underside of a surface and is supported by such surface.

Indirectly illuminated sign means a sign that is illuminated from a source outside of the actual sign.

Inflatable sign means a freestanding or moored sign expanded or inflated with air or another gas, like a balloon, and which may rise and float above the ground.

Legal nonconforming sign means any sign which was lawfully erected and displayed on [city clerk to insert effective date], but which does not conform to the requirements and limitations herein, or any sign which was lawfully erected and displayed on the effective date of any amendment to this section, but which does not conform to such amendment.

Logo means a symbol or trademark commonly used to identify a business or organization.

Memorial sign means a sign or tablet memorializing a person, event, place or structure.

Menu sign means a permanent changeable copy sign associated with restaurants with drive-through windows, car washes, or other businesses with drive-up services which gives a detailed list of food or services available.

Monument sign means a ground sign having a monolithic base or support structure of any material measuring no less than one-third (one-third) of the greatest width of the sign at any point.

Noncommercial message means a message intended to direct attention to a political, social, community or public service issue or an idea, aim viewpoint, aspiration or purpose and not intended to produce any commercial benefit or tend to encourage a commercial transaction.

Off-premises sign means a sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial message, which is generally conducted, sold, manufactured, produced, offered, or occurs elsewhere than on the lot where such sign is located.

On-premises sign means a sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial message, which is generally conducted, sold, manufactured, produced, offered, or occurs on the same lot as the sign.

Pennant means a tapered or dove-tailed banner or flag.

Permanent, when used in reference to a sign, means that the sign is constructed of durable materials and intended to exist for an indefinite period of time or the duration of the time that the use or occupant is located on the premises and is generally, but not necessarily, affixed to the ground or structure. Unless the context clearly dictates otherwise, the term "permanent," in this definition, is not intended to mean literal permanence, but rather it is meant to distinguish such signs from more transient or temporary signage.

Pole sign means a ground sign mounted upon a pole or pylon, or multiple poles or pylons, not meeting the definition of a monument sign.

Portable sign means a type of temporary sign that is not permanently attached to the ground or a building or not designed to be permanently attached to the ground or a building, including, but not limited to, trailers or other vehicles that are used principally as a sign, posters, sandwich boards or other freestanding signboards, regardless of whether such signs are attached to the ground or to a building or structure.

Projecting sign means a sign that is attached to the wall of a building and projects more than 15 inches beyond such wall.

Real estate sign means a sign advertising only the sale, rental or lease of the premises upon which the sign is located.

Sign means any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, that either conveys a message to the public, or intends to advertise, direct, invite, announce or draw attention to any event, goods, products, services, facilities, persons, property interest or business.

Street frontage means the distance for which a lot boundary adjoins a single public street.

Temporary sign means any sign that is not a permanent sign.

Wall sign means a sign that is attached to a wall of a building and is affixed parallel to the wall at a distance of not more than 15 inches from the surface of

the wall.

Window sign means any sign located completely within an enclosed building and visible from a public way or placed upon a window. Merchandise within the premises and visible from the exterior shall not be considered a window sign under this definition.

(c) *Applicability.* The sign ordinance codified in this section shall apply to any sign placed, erected, altered, maintained, or relocated within the city that is plainly visible, although not necessarily legible, from any public right-of-way or any lot in ownership separate from the lot upon which the sign is located.

(d) *Sign permits and fees.*

(1) *Permit required.* Except as provided in this section, it shall be unlawful for any person to place, erect, alter or relocate within the city, any sign without first obtaining a permit from the planning department and making payment of all fees as required by the city's fee schedule. This subsection shall not be interpreted to require a permit for a change of copy on a changeable copy sign, changing occupant sign panels on a directory sign, repainting, cleaning, or other normal maintenance and repair of any existing sign or its structure as long as the sign copy does not change.

(2) *Application for sign permit.* All applications for sign permits shall be filed on a form supplied by the city. Such application shall be submitted with all required information provided and shall contain or have attached thereto the following information:

- a. Date of application.
- b. Name, address, telephone number, and, if available, fax and email address, of the applicant as well as of the person, firm, corporation, or association erecting the sign.
- c. The written consent of the owner or lessee of the premises upon which the sign is to be erected, or the sworn statement of the applicant that the applicant is authorized by the owner, lessee or other authorized occupant of the premises to erect the proposed sign.
- d. A scale drawing showing the existing and proposed location and dimensions of all buildings, structures, and signs on the subject property. For a ground sign, the drawing shall also indicate the following: Distance of the sign from either the face of curb or sidewalk as well as its location relative to other ground signs, driveways, fire hydrants, and any other features of a site that could be obscured by the sign.
- e. A landscaping plan around the base of all ground signs.

- f. The configuration of the proposed sign listing the height, width, total square footage, proposed copy, method of construction and attachment, method of illumination and description of all electrical equipment, sign materials and colors, and at least one image showing the location of the proposed sign and its relationship to either the building to which it is to be mounted or the surrounding lot if it is a ground sign.
- g. The total area and number of all signs by type on the subject property both before and after the installation of the proposed sign.
- h. For temporary signs, applications must be accompanied by a signed, written statement acknowledging the ordinance requirements governing the duration of time during which the sign may be displayed.
- i. Such other information as the city may require to ensure compliance with this section and any other applicable laws.

(3) *Application process and review procedure.* It shall be the duty of the planning director, upon the filing of an application for a sign permit, to examine the application for compliance with the requirements of this section and, if deemed necessary by the planning director, to inspect the premises upon which the proposed sign is to be erected. If the application is complete and the proposed sign is in compliance with all the requirements of this section, and any other applicable laws, the following actions shall be taken:

- a. If the application is for a permanent sign that conforms to an approved comprehensive sign plan that applies to the property upon which it is to be located, or for a permanent or temporary sign that adheres to the requirements of this Code, the planning director may issue a permit.
- b. If an application for approval of a comprehensive sign plan pursuant to subsection (i) of this section is submitted with a development application subject to planning commission review and city council approval, the planning director shall review the application and make a recommendation to the planning commission prior to issuing a permit.
- c. Except for applications for approval of a comprehensive sign plan, applications shall be approved or denied within 30 days of the filing of a complete application or be deemed approved unless an extension of time for review is granted, in writing by the applicant. Any decision of the planning director may be appealed to the board of adjustment and appeals.

- d. In the event that a permit is issued but the sign authorized by the permit is not placed, erected, altered or relocated within six months after the issuance of the permit, the permit shall expire and be null and void.
- e. Fees. A fee shall be charged for the permit in the amount set forth in the city's fee schedule.

(e) *Design review criteria.* Signs shall meet the following criteria:

- (1) Any signage affixed to a building shall be dimensioned and located in such a manner that it fits the buildings architectural features and proportions.
- (2) All signs shall be designed to fit the zoning and character of the surrounding area. Special consideration should be made where proposed signage is located on or adjacent to locally identified historic structures or publicly-owned recreation and conservancy areas. Signage in planned unit developments, or in developments seeking comprehensive sign plans, shall conform to the planned or existing dominant architectural theme of the area. Signage in or abutting residential properties should be designed and located so as not to create a nuisance.
- (3) Signs illuminated by lights shall be positioned in such a manner that none of the light spills over onto an adjoining property or glares or shines into the eyes of motorists or pedestrians. All signs must conform to the sign illumination standards in subsection (f)(7) of this section and LEC 105.04.050.
- (4) Landscape features shall be incorporated around the base of all permanent ground signs. Landscape plantings or other landscape materials shall not be considered as part of the allowable signage.

(f) *General sign regulations.* This section pertains to all signs erected in the city. Additional regulations may apply based on sign type and zoning district in which the sign is to be displayed. Whenever regulations conflict anywhere within this section or with any other applicable rule or regulation, unless expressly stated otherwise, the more restrictive provision shall control.

- (1) *Surface area calculation.* The sign surface area shall be calculated based on the area within the smallest single continuous rectilinear perimeter of not more than eight straight lines encompassing all elements of the actual sign face including any writing, representation, emblems or any figure or similar character together with any material forming an integral part of the display or forming the backing surface or background on which the message or symbols are displayed, but excluding any support structure. For a sign painted on or applied to a building, the area shall be

considered to include all lettering, wording and accompanying design or symbols, together with any background of a different color than the natural color, or finish material of the building. Area of signs displaying copy on two parallel, back-to-back faces not separated by more than 12 inches shall be calculated with reference to a single face only.

(2) *Sign location, placement and setback requirements.* Except as provided elsewhere in this section, all signs shall be subject to the following requirements:

a. Limitations based on building setbacks.

1. Except as provided in subsection (f)(2)b of this section, no part of any permanent or temporary sign shall extend over a property line.
2. Where buildings are lawfully permitted to exist on the property line, a permanent sign attached to a building may project not more than six feet over the abutting public sidewalk or right-of-way, provided that the bottom of the sign components are located no less than eight feet above the ground immediately beneath such sign. No sign may project over adjacent private property. Any ground sign shall be located on the premises unless it is an authorized temporary sign for which a valid permit is in effect.

b. Signs on public property. No sign shall be located within or across any public right-of-way, or on any public property, easement, or utility pole, except for:

1. A sign erected by, or required by, a government agency or temporarily erected to protect the health and safety of the general public;
2. A sign erected in conformity with subsection (f)(2)a.2 of this section;
3. Subdivision identification signs, provided an encroachment and license agreement is obtained from the appropriate jurisdiction;
4. Directional signs to religious institutions, schools, parks and public buildings within the city not to exceed four square feet subject to the approval of the road authority. Not more than three directional signs are allowed for each building location.

c. Safety of motorists and non-motorists.

1. No sign shall be erected or maintained at any location where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure the vision of road users, or otherwise obstruct, interfere with the view of, or be confused with, any authorized traffic control sign, signal or device.
2. No ground sign, with the exception of government signs, may be placed within ten feet of a fire hydrant, within 15 feet of a crosswalk, or within 15 feet of the intersection of any circulation lane, driveway or alley.
3. No sign exceeding a height of 30 inches may be placed within the vision triangle as defined in LEC 1.04.
4. No sign or structural components shall obstruct passage on a sidewalk or walkway.

d. *Additional regulations pertaining to placement of all signs.* Except for a sign erected by, or required by, a government agency or temporarily erected to protect the health and safety of the general public:

1. No sign shall be attached to a fence, tree, shrubbery, utility pole or like items on either public or private property, and no sign shall obstruct or obscure primary signs on adjacent premises.
2. No sign shall extend beyond the perimeter of a permanent structure or obstruct any window, door, fire escape, ventilation shaft or other area that is required to remain unobstructed by an applicable building code.
3. No sign shall be mounted upon any roof of any building or structure.

e. *Americans with disabilities compliance.* Sign placement shall meet all Americans with Disabilities Act (ADA) requirements.

(3) *Construction and structural requirements.* Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe. Every sign shall be designed and constructed in conformity with the applicable provisions of the state building code and shall be free of any exposed extra bracing, angle iron, guy wire or cables. The base or support of all permanent ground signs shall be securely anchored to an appropriately designed concrete base or footing per the state building code.

- (4) *Load requirements.* All signs and other advertising structures shall be designed and constructed to meet all load requirements according to all applicable regulations in the state building code.
- (5) *Installation.* All signs shall be properly secured, supported and braced. No sign or any part thereof, or anchor, brace, or guy wire shall be attached, fastened or anchored to any fire escape, fire ladder or standpipe, and no sign or any part thereof, or anchor, brace or guy wire shall be erected or maintained which may cover or obstruct any door, doorway, or window of any building or which may hinder or prevent ingress or egress through such door, doorway or window, or which may hinder or prevent the raising or placing of ladders against such building in the event of fire. All signs or attention-attracting devices shall be free of projections that could cause injury to a pedestrian and shall be installed in such a manner to avoid obstruction of a public sidewalk or street or portion thereof.
- (6) *Maintenance.* All signs, including nonconforming signs, and sign structures shall be maintained to preserve the appearance and structural integrity substantially identical to the new condition of the sign.
- (7) *Sign illumination.* All illuminated signs shall comply with LEC 105.04.050 (Lighting, Glare Control and Exterior Lighting Standards) and the following requirements:
- a. *Electrical permit.* All signs in which electrical wiring and connections to be used shall comply with all applicable provisions of the state electrical code.
 - b. *Voltage displayed.* The voltage of any electrical apparatus used in conjunction with a sign shall be conspicuously noted on that apparatus. In addition, all electrical signs shall bear the label of approval of a recognized testing laboratory and be equipped with a watertight safety switch that is located where the electrical supply enters the sign.
 - c. *External illumination.* All external lighting fixtures shall be steady, stationary, fully-shielded and directed solely onto the sign, and shall use lighting designed to minimize light spill and glare. Lighting sources shall not be directly visible or cause glare to adjacent public rights-of-way or adjacent private property.
 - d. *Internal illumination.* Internally illuminated signs shall permit light to shine fully through only the lettering and graphic elements of the sign. The background for such lettering and graphics shall be opaque or translucent and shall transmit light at a level substantially less than that transmitted through the lettering and graphics. If the contrast between the lettering or graphic elements

and background does not permit adequate legibility, a translucent white boarder of up to one inch in width may be placed around said lettering or graphic elements.

e. *Brightness limitation.* Except for day-time displays on electronic variable message signs, in no instance shall the lighting intensity of any illuminated sign exceed:

1. Three footcandles at the front lot line and one footcandle at all other lot lines, measured three feet above the surface of the ground.
2. 50 footcandles measured perpendicular to the face of the sign from a distance equal to the narrowest dimension of the sign.

f. *Glare.* All artificial illumination shall be so designed, located, shielded and directed so as to prevent the casting of glare or direct light up adjacent public right-of-way or surrounding property.

g. *Reflectors and lights.* Gooseneck and similar reflectors and lights shall be permitted on ground and wall signs; provided, however, the reflectors and lights shall concentrate the illumination upon the area of the sign so as to prevent glare upon the street or adjacent property. It shall be unlawful to maintain any sign which is wholly or partially illuminated by floodlights or spotlights, unless such lights are completely concealed from view from the public right-of-way.

(8) *Motion as a component of a sign.* No sign shall have any flashing, scintillating, moving or blinking lights or rotating beacons, whether operated by electronic or mechanical means or wind driven, nor shall any floodlight, spotlight, or beacon utilize such actions to illuminate a sign. In addition, no beam of light shall be projected through a mechanism which periodically changes the color of the light reaching the sign.

(9) *Attention-attracting objects.* The use of any attention-attracting object, as defined in this Code, shall be allowed only as a temporary sign in conjunction with a special event permit, not to exceed ten days per issuance. No permit shall be granted for any premises more than four times in any calendar year; or more than once in any three-month period.

(10) *Lots having multiple street frontages.* Business occupying corner lots, or multiple frontages adjacent to more than one public right-of-way, may display up to one additional ground-mounted or building-mounted sign for each additional frontage, provided that such additional sign may not exceed 50 percent of the area allowed by the primary frontage and is

oriented toward the additional frontage. For the purposes of this Code, the primary frontage shall be presumed to be the frontage upon which the main entrance to the building is located. The applicant, however, may identify a different frontage as the primary frontage to maximize the effectiveness of the signage.

- (11) *Resemblance to traffic signs.* No sign shall contain or resemble any sign resembling in size, shape, message, or color any traffic control devices compliant with the Minnesota State Manual on Uniform Traffic Control Devices.

- (g) *Limitations according to the type of land use.* Unless exempt under subsection (k) of this section or as expressly provided elsewhere, no permanent or temporary signs shall be displayed except in conformity with the following regulations as they correspond to the type of land use and districts in which the sign is to be displayed.

- (1) *Residential uses in residential districts.*

- a. In connection with legal home occupations, a single sign which is limited in content to the name, address and legal home occupation of the owner or occupant of the premises, and which does not exceed two square feet in area. Signs under this subsection shall be wall signs only.
 - b. A residential condominium or multifamily apartment complex may display signs identifying the name of the condominium or apartment complex if the total acreage of the lot is one acre or more and the condominium or apartment includes eight or more units. One wall sign and one ground sign per street frontage may be displayed, with a maximum of two wall signs and two ground signs per lot. No identification sign shall exceed 32 square feet in area, and the maximum height is one story or 12 feet above curb level, whichever is lower. For the purposes of this subsection, the term "lot," when used in reference to a condominium, means all property within a common interest community.
 - c. Subdivision identification signs.
 - 1. Number. Each residential subdivision is allowed up to one subdivision identification sign per entrance. For the purposes of this section, residential subdivision shall include all phases of approved staged developments.
 - 2. Location. Subdivision identification signs shall be located near entrances to the subdivision, except that one sign may be located along an abutting arterial or major collector roadway.

3. Size. The maximum size for a subdivision identification sign is 32 square feet at a subdivision's main entrance and 24 square feet for all other locations.
4. Setback. Subdivision identification signs and support structure shall maintain a setback of at least ten feet from any street right-of-way. Signs as well as support structures within a center island shall maintain a setback of at least five feet from the curb and are subject to regulations set forth by subsection (f)(2)2.b of this section.
5. Changeable copy signs, including electronic variable message signs, are not a permitted sign type for subdivision identification signage.

(2) *Institutional uses in residential districts.* Nonresidential uses located in residential districts, such as churches and schools, located in residential districts may erect signs as follows:

a. *Wall and ground signs.*

1. *Area and number.* One wall sign and one ground sign per street frontage may be displayed, identifying the entity, with a maximum of two wall signs and two ground signs per lot. Additional wall or ground signs for wayfinding purposes may be permitted when the size of the lot, number of vehicular or pedestrian entrances, and layout of the buildings require additional signs in order to promote traffic and pedestrian safety. Signs under this subsection, whether displayed on a wall or on the ground, shall not exceed 12 square feet in area, except such signs may be increased in area by one square foot for each additional foot that the sign is set back more than 12 feet from a lot line. No sign under this section shall exceed 32 square feet in area.
2. *Height.* No identification sign shall project higher than one story, or 12 feet above curb level, whichever is lower.

b. *Temporary signs.*

(3) *Commercial, mixed-use and industrial districts.*

- a. Ground signs.
- b. Directory signs.
- c. Awning and canopy signs.

- d. Wall signs.
- e. Projecting signs.
- f. Hanging signs.
- g. Window signs.
- h. Directional and informational signs.
- i. Corporate flags and decorative banners.
- j. Temporary signs.

(4) *Planned development districts.* No permanent sign shall be displayed except a sign authorized by the city and included in the comprehensive sign plan pertaining to the site. Temporary signs are permitted for commercial, institutional or industrial uses unless prohibited by the comprehensive sign plan.

(5) *Conservancies and parks.* No sign shall be permitted except those installed by direction of the public works director.

(6) *Agricultural sales businesses.* Signage related to agricultural sales business may be erected as follows:

a. *On-premises signs, agricultural sales businesses.* One or more on-premises signs may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions:

1. Agricultural sales businesses utilizing less than ten acres of land specifically for the growing of agricultural crops for the businesses are allowed one on-premises sign not to exceed 32 gross square feet of advertising surface.
2. Agricultural sales businesses utilizing more than ten acres of land but less than 40 acres of land specifically for the growing of agricultural crops for the businesses are allowed up to two on-premises sign not to exceed 48 gross square feet of total advertising surface, with no individual sign surface exceeding 32 square feet in size.
3. Agricultural sales businesses utilizing more than 40 acres of land specifically for the growing of agricultural crops for the business are allowed up to three on-premises signs not to exceed 64 gross square feet of total advertising surface, with no individual sign surface exceeding 32 square feet in size.
4. Any illuminated sign shall be consistent with subsection (f)

(7) of this section and illuminated only during those hours when business is open to the public for conducting business.

b. *Temporary off-premises signs, agricultural sales businesses.*

Independent of the total allowable sign area for an individual property anywhere within the city, a temporary off-premises sign may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions:

1. *Maximum number.* Every agricultural sales business shall have no more than three off-premises signs at any given time to direct the public to the location of the business.
2. *Timeframe of use.* Temporary off-premises signs may be erected for 45-day time periods no more than four times in any given calendar year. The required temporary sign permit shall stipulate the range of dates for each of the four allowable time periods in any given calendar year.
3. *Size and height.* An off-site agricultural sales advertising sign shall not exceed 50 square feet in area and shall not be taller than ten feet in height.
4. *Setbacks.* Off-premises signs shall be a minimum of 25 feet from all side property lines, and a minimum of 50 feet from other off-premises advertising signs.
5. *Permission required.* Applicants for off-premises signs shall acquire permission from the property owner upon whose land the sign is to be erected.

(h) *Regulations pertaining to specific sign type.* Except as expressly provided elsewhere, signs shall meet the following regulations according to sign type:

(1) *Wall signs.*

- a. *Number.* No building occupant shall display more than one wall sign per street frontage except as provided below:
 1. One additional wall sign may be displayed on a building with no front setback, provided that such sign is a flat sign that is either painted upon the building or does not extend outward more than six inches.
 2. Up to three ancillary wall signs may be displayed on buildings measuring at least 100 feet in length along the

front lot line. Any ancillary sign displayed under this paragraph shall not exceed 50 percent of the net area or 50 percent of the height of the largest permitted wall sign displayed on that facade, nor shall the aggregate area of the ancillary signs exceed 50 percent of the net area of such wall sign.

- b. *Surface area.* The total permitted sign surface area of all wall signs on a facade shall not exceed one square foot of signage for each lineal foot of building frontage that is coterminous with the occupancy to which the sign refers, unless a different amount allocated to the building occupant is identified in an approved comprehensive sign plan pursuant to subsection (i) of this section. In addition, no individual wall sign shall exceed 100 square feet in area.
- c. *Location.* Wall signs shall be mounted parallel to building walls and only on a portion of an exterior wall that is coterminous with the occupancy to which the sign refers, unless a different location is identified in an approved comprehensive sign plan pursuant to subsection (i) of this section. No wall sign shall extend above or beyond the wall to which it is attached.
- d. *Installation requirements.* No wall sign shall cover or interrupt significant architectural elements such as columns, column caps, friezes, door or window heads, embellishments, adornments, fenestration, or ornamental detailing on any building. All mounting brackets and other hardware used to affix a sign to a wall as well as all electrical service hardware and equipment shall be concealed by architectural elements of the building or the sign itself.

(2) *Ground signs.*

- a. *Number.* There shall be no more than one ground sign for each street on which the lot has frontage, except one additional ground sign per lot frontage may be allowed for any lot frontage over 1,000 linear feet. On lots occupied by two or more occupants, or where a second ground sign is permitted, three or more occupants, a directory sign shall be used in lieu of multiple ground signs. No single business or building occupant shall be allowed signage on both an individual ground sign and a ground directory sign on the same street frontage. On premises having no principal building, there shall be no more than one ground sign for the premises.

- b. *Surface area.* No ground sign shall exceed the size listed in Table 5-3.
- c. *Type of sign.* Any permanent ground sign shall be erected as a monument sign. Pole signs are prohibited unless the pole portion of the sign is enclosed in a shroud that causes the sign to appear to have a monolithic base or support structure of any material measuring no less than one-third of the greatest width of the sign at any point or unless the height is no greater than three feet. This provision does not apply to signs erected on properties located south of 5th Street and north of I-94. The base of the monument sign shall not exceed the width of the widest portion of the sign face by more than 25 percent.
- d. *Location.* Ground signs shall be placed with consideration for visibility, access, maintenance, and safety, consistent with the provisions of subsection (f)(2) of this section. Ground signs shall be located beyond required setbacks a distance equal to or greater than the height of the sign. If this is not possible, ground signs shall be located as far from required setback lines as possible. In no case shall a ground sign, as defined in this section, extend beyond a lot line of a property. A ground sign larger than six square feet shall be located no closer than 100 feet of another ground sign or the furthest distance possible from another ground sign, whichever distance is shorter.
- e. *Height.*
 - 1. The height of a ground sign shall be measured from the approved grade at the base of the sign or the elevation of the street upon which the sign faces, whichever is lower, to the top of the highest attached component of the sign.
 - 2. A ground sign shall be mounted on a base not to exceed four feet in height.
 - 3. Allowable height of a ground sign shall be as set forth in Table 5-3.
 - 4. No ground sign shall be taller than the principal building on the premises to which it pertains.
- f. *Landscaping.* Perennial plantings, grass or other landscaping features shall be incorporated around the base of all ground signs.
- g. *Exempt or special purpose ground signs.* The location of and maximum height and surface area of any other exempt or special-purpose ground sign expressly authorized by another section of

this section, shall be as set forth in such other section.

Table 5-3 Ground Signs

Table 5-3 describes the zoning districts in which ground signs may be displayed, and the maximum height and area of the signs, as determined by street classification (as designated in the Lake Elmo comprehensive plan) of the closest street to which each freestanding sign is located. For ground signs on zoning lots with more than one street frontage, use the higher street classification to determine the maximum height and area allowed. Businesses that are located on a road designed to provide safe access to minor arterials and principal arterials shall be permitted to erect a freestanding sign up to the determined maximum height and size allowable for a freestanding sign on said minor arterial or principal arterial road to which it is adjacent.

Table 5-3: Ground Signs

<i>Zoning District</i>	<i>A^a, LDR, OP, RE, RS, RR^a, RT^a</i>	<i>MDR, HDR</i>	<i>BP, C, CC, GB, LC, VMX</i>
	<i>Max. Height/Area (square feet)</i>	<i>Max. Height/Area (square feet)</i>	<i>Max. Height/Area (square feet)</i>
Local Street	-	6'/32	10'/40
Collector Street	-	6'/32	10'/50
Minor Arterial	-	6'/32	10'/64
Principal Arterial ^b	-	6'/32 ^b	12'/80 ^b
Notes to Table 5-3:			
^a Ground signs are only permitted in the A, RR, and RT districts in conjunction with agricultural sales business.			
^b In lieu of a ground sign meeting underlying zoning requirements, properties located south of 5th Street and north of I-94 may have one ground sign up to 30 feet in height and up to 250 square feet in size when within 50 feet of the property line nearest I-94. The base of the sign shall be constructed of			

materials similar to those used on the building for which the sign is installed.
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(3) *Window signs.*

- a. *Location.* All window signs must be located inside an exterior window unless the sign is weatherproof and does not pose a danger from falling or being blown by the wind. Lettering or graphic elements that are directly mounted on a window shall not encroach upon the frame, mullions, or other supporting features of the glass.
- b. *Permanent signs.* When a sign is painted on or otherwise attached or applied to the window area in a permanent manner, then such a sign shall be included in the total allowable wall sign area for the building and shall not exceed 20 percent of the total ground-floor window area of the building, excluding the door windows. All permanent window signs which have their lettering or graphic elements directly on the glazing shall be painted, metal leafed, vinyl transferred, or in some other manner permanently applied to the interior side of the glass of an exterior building window or door. No application using a temporary adhesive shall be permitted unless the planning director determines the application to be reasonably safe.
- c. *Temporary signs.* Signs advertising sales and specials shall not exceed 30 percent of the total ground-floor window area of any building, excluding the door windows. Such signs must be displayed in conformance with the temporary sign regulations listed in subsection (j) of this section.
- d. *Limitation.* Under no circumstances shall any combination of permanent or temporary window signage cover more than 50 percent of the total ground window area of any building.

(4) *Changeable copy signs.*

- a. *Not an additional permitted sign type.* Changeable copy signs are not an additional permitted sign type, but any permitted sign type may be a changeable copy sign, provided that the total surface area of the entire sign does not exceed the maximum allowed for the type and location of sign upon which the changeable copy is displayed.
- b. *Electronic variable message signs.* Any sign type may be an electronic variable message sign subject to the following

regulations:

1. *Surface area.* The areas of electronic variable message signs capable of displaying copy shall not exceed 40 square feet and shall be included within the maximum aggregate sign surface area allowed for the type and location of sign upon which the changeable copy is displayed.
 2. *Length of cycle.* The electronic changeable copy or images shall not alternate, change, fade in, fade out, or otherwise change more frequently than once every ten seconds. Electronic variable message sign signs may not display scrolling, racing, pixelating or moving characters or images, or similar actions that convey motion.
 3. *Color.* All copy, characters or other changeable images shall be of one color only, with light copy on a dark background.
 4. *Brightness adjustment.* An electronic variable message sign shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illumination such that the light level does not exceed three footcandles at the front lot line and one footcandle at all other lot lines, measured three feet above the surface of the ground.
 5. *Maintenance.* Any electronic variable message sign shall be maintained so as to be able to display messages in a complete and legible manner.
- (5) *Canopy and awning signs.* The use of canopy and awning signs reduces the maximum area of any allowed wall sign by half. Canopy and awning signs are subject to the following provisions:
- a. *Surface area.* The sign surface area of a canopy or awning sign shall not exceed 15 percent of the area of the vertical section of the canopies and awnings. The area of the vertical section of the canopies and awnings is calculated as the difference between the highest and lowest point on the canopy or awning multiplied by the length of the canopy or awning measured parallel to the facade upon which it is attached.
 - b. *Location.*
 1. Canopies and awnings shall be constructed and erected

so that the lowest portion of the projecting frame thereof shall be not less than nine feet, and the lowest portion of the descending skirt shall be not less than eight feet above the level of the sidewalk or public thoroughfare.

2. No portion of the canopy or awning sign shall extend above or beyond the canopy or awning upon which it is attached. However, a sign may be hung beneath a canopy parallel to the building frontage so long as it and its structural components are no less than eight feet above the ground immediately beneath the sign.
3. Awnings shall not project more than 72 inches out from the building upon which they are attached, nor extend out from the building beyond the extension of the awnings on adjoining buildings.

c. *Installation requirements.* To preserve the architectural integrity of a building, no canopy or awning, and no canopy or awning sign, shall cover or interrupt significant architectural elements such as columns, column caps, friezes, door or window heads, embellishments, adornments, fenestrations or ornamental detailing.

d. *Illumination.* Awnings and canopies may be illuminated where the following conditions are maintained:

1. Both interior type strip lighting and exterior type gooseneck lighting is permitted, not exceeding a maximum light level of 18 footcandles measured three feet from the perpendicular to the light source.
2. The bottom of any illuminated awning or canopy shall be enclosed.
3. The provisions of subsection (f)(7) of this section are satisfied.

e. *Materials.* Canopy and awning signs shall be made of either the material with which the canopy or awning is covered or other water proof materials affixed flush to the face of the canopy or awning, or be painted directly on the awning or canopy material with weather-resistant paint.

f. *Snow load.* It is found that snow and ice that accumulates on awnings can pose a danger to pedestrians. To ensure the safety of pedestrians, snow and ice shall be removed from awnings within a reasonable time period after an event of snow and ice

accumulation.

- (6) *Hanging signs.* One sign up to six square feet in area may be suspended above a walkway near a primary building entrance so long as it and its structural components are no less than eight feet above the ground immediately beneath the sign.
- (7) *Projecting signs.* A projecting sign may be displayed in lieu of a wall sign and subject to the following restrictions:
 - a. *Maximum projection.* The maximum distance a projecting sign may project is not more than 24 inches into the right-of-way. Subject to zoning setback limitations, a projecting sign may project no more than six feet from the building face.
 - b. *Location.* A building may have one projecting sign facing a street or on a corner of the building.
 - c. *Surface area.* The permitted area of a projecting sign shall not exceed the square footage for the amount that would otherwise be allowed for a wall sign on the building.
 - d. *Height.* A projecting sign must vertically clear any pedestrian area by at least eight feet and vehicular ways by at least 14 feet. A projecting sign may extend to the juncture of the roof with the building wall or to the top of any parapet, but no projecting sign may extend above a second story.
- (8) *Directional signs.* On-premises directional signs may be placed on private property near driveway entrances, at building entrances, and in parking lots and loading areas where reasonably necessary. Each such sign shall be located on premises and shall adhere to the regulations pertaining to vision triangles and other setbacks as defined in subsection (f)(2) of this section. Such signage shall be considered exempt from the total signage calculation for the premises as long as all the following standards are met:
 - a. Such signage does not serve an additional advertising purpose.
 - b. There are no more than three directional signs per lot, not including a maximum of one directional sign allowed per driveway entrance/exit.
 - c. Surface area per sign does not exceed four square feet.
 - d. Logos do not exceed two square feet in area per sign.
 - e. Sign height does not exceed five feet above ground elevation at base of sign.

(9) *Flags and decorative banners.* The following regulations apply to all flags and decorative banners:

- a. A minimum clearance of eight feet over pedestrian ways and 14 feet over vehicular areas.
- b. Maximum number of flagpoles for any lot is three.
- c. Maximum height of any flagpole is 50 feet.
- d. Maximum number of flags per lot is four.
- e. Maximum area of any flag shall be 40 square feet.
- f. Flags representing a private entity, including corporate or business flags, shall be included within the maximum sign area total for the site, as applied to the allowance for a ground sign, and shall require a sign permit.

(i) *Comprehensive sign plans.*

(1) *Purpose.* Multi-tenant developments such as shopping malls, due to the varying occupant's need for signage and the potential for unique architecture and placement of different occupancies as they relate to street frontages, can create challenges to the applicability of sign regulations and the fair distribution of permitted square footage for occupants. This section is intended to define how signage permitted under this Code will be distributed among the different occupancies available in the development. The comprehensive sign plan shall create visual harmony between the signs, buildings, and building site through unique and exceptional use of materials, design, color, and lighting, and other design elements; and shall result in signs of appropriate scale and character to the uses and buildings on the lot as well as adjacent buildings, structures and uses.

(2) *Applicability.* A comprehensive sign plan shall be required of an applicant for all planned developments and commercial or industrial multi-tenant developments where different occupancies will compete for permitted square footage on a single lot.

(3) *Submission requirements.* An application for comprehensive sign plan approval shall be submitted to the planning director and shall include:

- a. A site plan, dimensioned, showing the location of the buildings, structures, parking areas, driveways, and landscaped areas on the lot upon which the proposed sign is to be attached or erected.
- b. A table or tables containing:
 - 1. Computation of the maximum total sign area.

2. Maximum area for individual signs.
 3. Height and number of ground signs.
 4. Statement of the maximum total sign area and maximum number of signs permitted on the site by this section.
- c. An accurate indication on the site plan of the location and orientation of each sign for which a permit is currently being requested, the anticipated location of future signs requiring a permit, and the location of all reasonably anticipated temporary signs.
- d. A description and illustration of the following may be required:
1. Colors and materials to be used in sign construction.
 2. Style of lettering for all signs.
 3. Appearance/location of logos or icons.
 4. Location of each sign on the buildings, with building elevations if necessary.
 5. All sign proportions.
 6. Types of illumination.

(4) *Amendment.* A comprehensive sign plan may be amended by filing a new comprehensive sign plan, in conformance with the requirements of the sign ordinance in effect at the time, and obtaining approval of the planning director.

(5) *Binding effect.*

- a. After approval of a comprehensive sign plan, no permanent sign shall be erected, placed, painted, or maintained by the property owner or any buyer, tenant, subtenant, assignee, employee, agent or other party in use of the subject property except in conformance with such plan without obtaining a sign permit and in conformance with the comprehensive sign plan.
- b. If the city council has approved a comprehensive sign plan with flexible criteria, the planning director is authorized to approve, through the standard sign permit approval process, sign applications in conformance with the comprehensive sign plan, but only to the extent that the application is in conformance with the comprehensive sign plan.
- c. The terms and conditions of an approved comprehensive sign

plan shall have the same force and effect and be enforced in the same manner as any other provision of this section.

(j) *Temporary signs.*

(1) *General requirements.* Temporary signs shall conform to the following standards:

- a. *Permit required.* No temporary sign may be displayed without a valid temporary sign permit or portable sign permit.
- b. *Sign type.* Temporary signs may include any sign type permitted by this section.
- c. *Number.* No more than two temporary signs may be displayed on a lot at any time.
- d. *Surface area.* The maximum area of all temporary signs displayed shall be a combined total of eight square feet if displayed for ten days or longer.
- e. *Location.* Temporary signs shall be located only upon the premises to which the special, unique, or limited activity, service product, sale, or event is to occur. No temporary sign may be placed off-premises except as otherwise provided elsewhere in this section.
- f. *Duration.* No temporary sign permit shall be issued to erect or maintain any temporary signage for a period exceeding 21 days, or to be displayed three days after termination of the activity, service, project, sale, or event to which the sign pertains, whichever comes first. A permit for temporary sign or signs shall be granted no more than four times in any calendar year and only once every three months.
- g. *Installation requirements.* All temporary signs shall be constructed, anchored and supported in a manner which reasonably prevents the possibility of such signs becoming hazards to the public health and safety as determined by the planning director.

(2) *Business opening signs.*

- a. *Permit required.* A permit shall be issued before a business opening sign may be erected. The permit may not be renewed.
- b. *Type of sign and location.* A business opening sign may be a wall sign, projecting sign, or ground sign. A business opening sign may be displayed in addition to, in lieu of, or affixed to a permanent

sign. A banner may be used as a business opening sign.

- c. *Size.* The size of a business opening sign shall be determined by the type of sign chosen, and shall be limited to the maximum size allowed for a permanent sign of that type at the location.
- d. *Illumination.* A business opening sign may be illuminated subject to subsection (f)(7) of this section.
- e. *Duration.* A business opening sign may be displayed for a period not to exceed 30 days from the date the business opened, changed names, or changed ownership.

(3) *Portable signs.* In addition to the general requirements pertaining to temporary signs, the following standards pertain to portable signs:

- a. *Permit required.* A sign permit shall be issued on an annual basis before a stationary portable sign may be erected. Such permit shall only be valid during the calendar year during which it is issued.
- b. *Construction.* A sign shall be manufactured to a professional standard of construction, finish and graphics. A portable sign shall be freestanding, self-supported and constructed of substantial materials such as wood, metal or plastic such that the sign will reasonably withstand the elements.
- c. *Size and design regulations.*
 - 1. A portable sign shall not exceed six square feet in surface area per side, with a maximum of two signable sides or faces.
 - 2. The sign shall not exceed three feet measured at the widest point of the sign face.
 - 3. Any portion of the sign's face used for a chalk or dry-erase board shall not exceed 50 percent of the total sign face surface area.
- d. *Number.* One portable sign may be displayed per business or occupant in any commercial or industrial area or planned unit development.
- e. *Location.* A portable sign is restricted to the lot of the business establishment to which a permit has been issued, except such a sign may be located in the public right-of-way in front of the premises only where no front setback is required.
- f. *Placement.* A portable sign shall:

1. Be placed only along sidewalks where a minimum five-foot-wide clear sidewalk is maintained. In no event shall a portable sign be placed on any bicycle path. The placement, of a portable sign shall not obstruct access to any crosswalk, mailbox, curb cut, fire hydrant, fire escape, fire door, building entrance, public parking space or any other public property, nor shall a sign obstruct the ability of persons to exit/enter vehicles parked along the curb;
2. Not be attached, chained or in any manner affixed to public property including street trees, utility poles or sign posts;
3. Not obstruct the clear view of any traffic signal, regulatory sign or street sign;
4. Not be located closer than ten feet to any other portable sign;
5. Not be located directly adjacent to a bus stop or transit vehicle, shall not obstruct sight lines of road users, nor be placed less than 25 feet from a street intersection or 15 feet from a crosswalk;
6. Not be placed in such a way as to interfere with snowplowing of the streets;
7. Be maintained free of snow, be placed on solid ground at all times and shall not be placed on top of snow banks.

g. *Illumination.* A portable sign shall not be illuminated.

h. *Time limitations and removal.* A portable sign may be displayed only during business hours. Such sign must be removed and safely stored out of view during times when the business is not open to the public. Trailers or other vehicles that are not used principally as a sign may be parked on the lot when the business is not open to the public.

i. *Enforcement.* Portable signs located within the public right-of-way are a privilege and not a right. The city in permitting placement of such signs in the public right-of-way reserves the right to require their removal at any time because of anticipated or unanticipated problems or conflicts. To the extent possible, the permittee shall be given prior notice of any time period during which, or location at which, the placement of portable signs is prohibited. Furthermore, the sign permit may be revoked by the planning director following notice to the permittee. The permit may be revoked if one or more conditions outlined in this section have been violated, or if the sign

is determined to constitute a public nuisance not specifically outlined in this section. Following the revocation of the sign permit, no application for the same site shall be filed within 180 days from the date of revocation. The permittee has a right to appeal the decision of the planning director within 30 days of issuance of a revocation notice pursuant to subsection (n)(2) of this section.

j. *Indemnification.* Where a temporary, portable sign is permitted in the public right-of-way, the owner, lessee or lessor of the business to which a permit has been issued and the property owner shall agree in writing to fully indemnify and hold the city harmless for any personal injury or property damage resulting from the existence or operation of said sign, and shall furnish evidence of general liability insurance in the amount of \$50,000.00 with the city as additional named insured or provide other security to the satisfaction of the city administrator.

k. *Permit renewal.* The permit for a portable sign must be renewed annually prior to January 1 of each year.

(k) *Signs exempt from permit.* Consistent with the purpose and scope of this section, the city recognizes that certain temporary, necessary, or limited-purpose signs should be lawfully displayed without the need to obtain a permit and should not count as part of the specific sign area allowed to be displayed on a particular property. All signs exempt from permit requirements must, nonetheless, adhere to all other applicable sections of this section and all other applicable state and federal regulations. The city finds that the following signs may be displayed without a permit because they serve an immediate or temporary traffic safety or way finding function:

(1) *Address and nameplates.* Address and name plates not exceeding three square feet in area.

(2) *Athletic field signage.* Signs, banners, and scoreboards designed solely for view from spectator areas and displayed on interior walls, fences, or other structures located inside an enclosed athletic field at a school, park, or other public or private athletic complex. Approval of the park commission shall be required to display a sign, banner, or scoreboard under this subsection at a city park.

(3) *Awning signage.* Signs displayed on awnings located on commercial or industrial buildings, provided that the signs are displayed on the lowest 12 inches of the principal face or side panels of awnings and, provided that they do not exceed six inches in height.

(4) *City signs on city property.* City signs on city property not exceeding 32

square feet in area.

- (5) *Construction signs.* Such signs may only be placed on the property where work is in progress, shall not be erected prior to the beginning of work for which a valid building permit has been issued, and shall be removed within ten days of completion of work or the expiration of the building permit, whichever is sooner. Construction signs on parcels in residential or park uses shall not exceed 32 square feet per street frontage. Construction sign area for commercial, industrial, multifamily, or planned development uses on parcels less than 100,000 square feet shall not exceed 64 square feet per street frontage; and on parcels greater than 100,000 square feet shall not exceed 96 square feet per street frontage. Square footage must be divided.
- (6) *Flags.* Flags that comply with the provisions of subsection (h)(9) of this section.
- (7) *Garage sale and estate sale signs.* Signs advertising a garage sale shall not exceed four square feet in area, shall not be displayed for a period of time more than 72 consecutive hours and may be displayed no more than twice in any one calendar year. Up to three residential garage sale signs may be displayed per event, two of which may be displayed off-premises, but not in the public right-of-way. Any such sign placed on private property must have the consent of the property owner on whose property such sign is displayed.
- (8) *Government signs, including traffic or official public hearing notice signs.* Such signs are placed, authorized, or required by the city or other authorized governmental agency. The requirements for maximum area, height, setback, or other size, materials or physical specifications shall be as required by law or the authorizing agency.
- (9) *Holiday and temporary decorations.* Holiday or temporary decorations when located on private property, or with the approval of the city if on public property. In addition, any sign in the nature of a decoration, identification or direction, incidentally and customarily associated with any national or religious holiday or any civic festival, fair or similar gathering, held during a period of ten days or less in any year, provided such sign shall not differ substantially from the requirements set forth in this section. Such decorations may not contain any commercial message or logo or depict any commercial symbol or character.
- (10) *Home occupation signs.* Signs identifying only the name and occupation of the resident. Home occupation signs shall be non-illuminated, flush-mounted to a wall of the residence, and shall not exceed two square feet in area.
- (11) *Memorial signs.* Any noncommercial sign in the nature of a cornerstone,

commemorative, or historical tablet or landmark designation plaque.

- (12) *Menu signs.* Menu signs up to 55 square feet in area and six feet in height, provided they are located within 15 feet of the commercial building with which they are associated or advertise and in a manner such that the copy is not readily viewable from the public right-of-way or a residential occupancy on an adjacent lot.
- (13) *Noncommercial messages.* One sign per parcel per street frontage carrying any lawful noncommercial message not exceeding 12 square feet in area. Any other permitted commercial sign may be substituted for a noncommercial message but will count toward the total signage type and area for the parcel upon which it is located. Hand-held signs carrying noncommercial messages are not subject to any size limitation so long as they are held by and under the physical control of a person during all times they are on display.
- (14) *Parking lot regulation signs.* Parking signs not exceeding nine square feet and having a minimum setback of ten feet.
- (15) *Parking lot directional signs.* Signs must comply with the provisions of subsection (h)(8) of this section.
- (16) *Parking lot traffic signs.* Parking lot traffic signs shall be as required by law.
- (17) *Political and election campaign signs.* Signs containing a political message and displayed during an election campaign period are allowed in addition to the noncommercial message sign under subsection (k)(13) of this section during the election campaign period, however, after ten days has passed from the election date, such sign may continue to be displayed, but will count as the allowed noncommercial message sign under subsection (k)(13) of this section. Political and election campaign signs may also substitute for any commercial message sign in the same manner. Unless substituted for another permitted sign, such signs shall not have any electrical component. Such signs shall not have a mechanical or audio auxiliary component, and shall not be attached to or placed on utility poles, trees, traffic devices, or within the public rights-of-way.
- (18) *Real estate signs advertising residential properties.* Signs located on premises may not be placed above the top of the lowest level of the building. All signs authorized under this subsection shall be removed within ten days of the sale or rental of the residential units being advertised.
 - a. For lots containing less than four dwelling units within one residential structure, one non-illuminated real estate sign up to six

square feet per unit may be displayed to advertise the sale or rental of the premises or any part thereof.

- b. For lots where at least four but less than 16 dwelling units are contained within one residential structure, one non-illuminated real estate sign up to 12 square feet may be displayed to advertise the sale or rental of the premises or any part thereof.
- c. For lots where 16 or more dwelling units are contained within one residential structure, one non-illuminated real estate sign up to 32 square feet may be displayed to advertise the sale or rental of the premises or any part thereof.
- d. Up to two signs directing traffic to open houses, each sign no more than six square feet in area, may be installed off property after obtaining the consent of the property owner on whose property such sign is to be displayed. These signs may not be located in the public right-of-way. These off-property directional signs may be displayed only during the hours that the advertised activity is to take place, and they must be a self-supporting type sign.

(19) *Real estate signs advertising single occupant commercial property.* For lots less than five acres, one non-illuminated real estate sign up to 12 square feet in area may be displayed. For larger lots, one non-illuminated real estate sign up to 32 square feet in area may be displayed. All signs authorized under this subsection shall be removed within ten days of the sale or rental of the commercial unit being advertised.

(20) *Real estate signs advertising nonresidential grouped development or multi-tenant buildings.* For each group development or multi-tenant building containing nonresidential land uses, a maximum of two signs, one per each nonresidential street frontage, may be displayed up to a maximum of 32 square feet in area.

(21) *Real estate subdivision signs.* For each real estate subdivision that has been approved in accordance with the city subdivision regulations, a maximum of two temporary development project identification signs may be located on some portion of the subject subdivision. Each such sign shall be not more than 32 square feet in area. One additional similar sign shall be permitted for each 100 lots in the subdivision in excess of 100 lots. These signs may be displayed until a time at which building permits have been issued for 80 percent of the lots in the subdivision. Signs advertising sale or lease after such time shall conform to the requirements of subsection (k)(18) of this section.

(22) *Temporary notices.* Leaflet-type notices flat-mounted to kiosks or public information boards.

- (23) *Utility company signs.* Signs that serve as an aid to public safety or that show the location of facilities such as public telephones and underground cables only to the extent necessary to accomplish those goals.
- (24) *Window signs, temporary.* Signs and displays that are of a temporary nature such as for advertising sales and specials and that do not cover more than 30 percent of the total ground-floor window area of any building, excluding the door windows. Merchandise and pictures or models of products or services incorporated in a window display are not considered signs. Any sign placed on the outside of a window requires a sign permit unless the sign is weatherproof and does not pose a danger from falling or being blown by the wind.
- (25) *Window or wall signs not readable off-premises.* Window or wall signs not exceeding two square feet in area with lettering not exceeding three inches high designed to provide information to persons on the premises such as hours of operation, or sample restaurant menu. Where no front yard setback exists, such signs as would generally be unreadable off premises where minimum setback regulations apply shall qualify for this exemption notwithstanding that such signs are readable from the public right-of-way. Such signs shall not be counted toward total permitted signage.
- (l) *Prohibited signs.* The following signs are expressly prohibited in the city:
- (1) Abandoned signs.
 - (2) Off-premises signs, except as expressly allowed under this section.
 - (3) Inflatable signs.
 - a. Rationale. Inflatable signs shall be prohibited because they are generally more distracting and hazardous to pedestrian traffic safety, tend to have an anchoring device that is less reliable under wind pressure, and out of scale and less compatible with surrounding structures and signs.
 - b. The following inflatable devices shall not be considered a sign:
 1. Registered hot air balloons in use and momentarily moored but not being used primarily as a sign.
 2. Novelty type balloons less than two feet in diameter and less than three feet in any dimension tethered or moored no more than ten feet above the ground.
 3. Inflatable holiday or other decorations displayed temporarily on private property, that do not contain any commercial message or logo or depict any commercial

symbol or character, and that does not exceed 15 feet in height.

- (4) Signs attached to any public utility pole or structure, street tree, fence, fire hydrant, bridge, curb, sidewalk, park bench, or other location on public property except as otherwise expressly permitted under this section.
 - (5) Beacons, unless authorized for use by the city or any other governmental entity in the exercise of official government business and authority.
- (m) *Legal nonconforming signs.* Any legal nonconforming sign may continue to be displayed or replaced consistent with LEC 105.12.340 through LEC 105.12.350.
- (n) *Variances and appeals.*
 - (1) *Variances.* It is recognized that circumstances may exist from time to time where strict application of the size, location and type of sign standards hereinafter specified for the various zoning districts may be unreasonable or where literal enforcement of the regulations may work an unnecessary hardship on the applicant. Variations from the standards are, therefore, permitted by issuance of a variance by the city council upon recommendation of the planning commission that such extenuating circumstances exist. Variances shall be considered according to the provisions of LEC 105.12.320.
 - (2) *Appeals.* An applicant may appeal any decision of the planning director to the board of adjustment and Appeals according to the provisions of LEC 3.08.100.
- (o) *Violations.*
 - (1) It shall be unlawful and a violation of this section for any person to maintain any prohibited sign, to perform or order the performance of any act prohibited by this section, or to fail to perform any act which is required by the provisions of this section. In the case of any such violation, each 24-hour period in which such violation exists shall constitute a separate violation.
 - (2) Any and all signs, erected, altered, or maintained in violation of this section, or any of the clauses and provisions of the same, or in violation of any of the laws or ordinances of the city and/or the state, are, and each of them is declared to be, a public nuisance and subject to enforcement. Any such signs are erected, altered or maintained contrary to law shall be abated as a common nuisance by the planning director.
- (p) *Penalty.* Any person who shall fail to comply with any of the provisions of this section shall be subject to a penalty as prescribed by LEC 1.04.230.

(q) *Enforcement.*

- (1) If the planning director or building official finds that any sign has been erected, altered, or is being maintained in violation of this section, or is in an unsafe condition as to be a menace to the safety, health, or welfare of the public, he shall give written notice to the owner thereof of the person entitled to possession of the sign and the owner of the real estate upon which the sign is located. No notice shall be required for permitted temporary signs displayed in violation of time limitations prior to taking enforcement action.
- (2) Said letter shall notify the owner, or person entitled to possession of the sign, of the specific violation or violations and direct that alterations, repairs or removal, whichever may be applicable, be made to bring said violations in conformance with the terms and conditions of this section.
- (3) In the event the person so notified fails or neglects to comply with or conform to the requirements of such notice, the planning director or building official may file an appropriate citation or complaint in an appropriate court of law or take whatever other legal action may be necessary to cause such sign to be altered or removed. If a sign is considered abandoned, the city, after notice, may remove such sign at the cost of the owner of the property upon which the sign sits. An invoice for such costs shall be sent to the property owner and, if not paid, shall be placed on the tax roll as a special charge pursuant to M.S.A. § 429.061.

(Code 2007, § 154.212; Ord. No. 08-082, 6-18-2013; Ord. No. 08-124, 8-18-2015; Ord. No. 08-192, §§ 1—5, 1-2-2018; Ord. No. 08-245, § 2, 2021)

105.12.440 Accessory Buildings And Structures, Generally

- (a) *Purpose.* Within the city, the following provisions shall apply to accessory building and structures in all zoning districts.
- (b) *Definitions.* The following words, terms and phrases, when used in this section, and all sections pertaining to accessory buildings or structures, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Agricultural building means an accessory building means a structure that is on agricultural land as determined by the governing assessor of the city under M.S.A. § 273.13(23) and meets all other requirements of M.S.A. § 362B.103. A state pollution control agency permit may be required.

Detached domesticated farm animal building means a one-story accessory building used or intended for the shelter of domestic farm animals and/or related

feed or other farm animal supportive materials. The building may require a state pollution control agency feedlot permit in addition to site and building plan approval.

Detached residential accessory building means a one-story accessory building primarily used or intended for the storage of automobiles and other miscellaneous equipment. No door or other access opening shall exceed 14 feet in height.

Fish house means a water-oriented structure meant to provide periodic shelter during the winter months while atop a frozen lake for use in fishing. A structure will be considered a fish house only if it is constructed with sleds, wheels or similar means to allow transport on to a frozen lake; is not used on land for human habitation; and is not used for boat storage.

Storage or tool shed means a one-story accessory building of less than 200 square feet gross area with a maximum roof height of 12 feet.

- (c) *Permit required.* All accessory building and structures require either a certificate of zoning compliance or a building permit as determined by the state building code.
- (d) *Principal structure necessary.* No accessory buildings or structures shall be constructed nor accessory use located on a lot until a building permit has been issued for the principal structure to which it is accessory. Exemption: Fish houses, as defined in this Code and located in the RS Rural Single-Family District, are exempt from this requirement, provided the following are met: must be located on a lot one-half acre in size or more with direct access to a water body; is 120 square feet or less; and complies with shoreland regulations and RS Rural Single-Family setback requirements. One fish house per lot may exist without a principal structure. The structure must maintain a current fish house license with the state department of natural resources regardless if it is left on a water body overnight. If a current state department of natural resources fish house license is not obtained for the structure, the structure must be removed from the property within 60 days.
- (e) *Proximity to principal structure.* Accessory buildings shall maintain a six-foot setback from the principal structure. An accessory building or structure will be considered as an integral part of the principal building if it is located six feet or less from the principal structure.
- (f) *Exempt structures.* The following residential improvements shall be exempt from the maximum allowed structure size and number requirements in residential districts:
 - (1) Unenclosed playhouses.

- (2) Gazebos up to a total of 120 square feet in size and a maximum of 12 feet in overall height.
- (3) Detached decks over 30 inches in height up to a total of 120 square feet in size.
- (4) Outdoor swimming pools.
- (5) Patios.
- (6) Tennis and sport courts.
- (7) Structures, sheds or coops up to a total of 200 square feet in size used to house permitted animals, such as chickens, horses, or other livestock. These structures must not exceed 12 feet in height and must meet all required setbacks per MPCA guidelines and the city's animal ordinances.
- (8) Water-oriented accessory structures as permitted in accordance with the city's shoreland ordinance.
- (9) Storage or tool sheds as defined in this section.
- (10) Ground-mount solar energy systems.

(Code 2007, §154.213; Ord. No. 08-138, 6-21-2016; Ord. No. 08-210, § 1, 5-15-2018)

105.12.450 Pole Construction Buildings

(a) Pole construction buildings, A and RR Districts.

- (1) Pole construction buildings are permitted in the A and RR zoning districts subject to the setbacks and other performance standards required under the Zoning Code, LEC 105.12.
- (2) Pole construction buildings are prohibited on properties zoned A and RR where a conditional use permit has been issued for an Open Space Preservation (OP) Development.

(b) Pole construction buildings, RS District. Pole construction buildings are permitted in the RS zoning district only on parcels that are abutted by land zoned Rural Residential (RR) or Agricultural (A) zoned along 75 percent or more of the perimeter of the subject parcel.

(Code 2007, § 154.214; Ord. No. 08-104, 3-18-2014)

ARTICLE VIII ENVIRONMENTAL PERFORMANCE STANDARDS

[105.12.460 Purpose](#)

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105.12.460 Purpose

The purpose of this section is to provide regulations of general applicability for property throughout the city that are intended to protect or enhance natural resources and processes, and minimize conflicts among land uses.

(Code 2007, § 154.250; Ord. No. 08-077, 5-7-2013)

105.12.470 Tree Preservation

- (a) *Purpose.* Within the city, trees and woodlands are considered a valuable asset to the community. The city places a priority on protecting this asset and finds that it is in the best interest to regulate the development and alteration of wooded areas within the community. All builders, developers and subdividers shall comply with all the provisions in the zoning code which address the preservation of existing significant trees. All builders, developers and subdividers are encouraged to preserve all healthy trees of significant value even if the trees do not meet the size requirements to be considered significant trees.
- (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:

Common tree means and includes Ash, Aspen, Basswood, Catalpa, Elm, Hackberry, Locust, Poplar, Silver Maple, Willow and any other tree not defined as a hardwood deciduous tree or a coniferous/evergreen tree.

Coniferous/evergreen tree means a wood plant, which, at maturity, having foliage on the outermost portion of the branches year-round. Tamaracks are included as a coniferous tree species.

Critical root zone (CRZ) means an imaginary circle surrounding the tree trunk with a radius distance of one foot per one inch of tree diameter. E.g., a 20-inch diameter has a critical root zone with a radius of 20 feet.

Deciduous hardwood tree means and includes Birch, Cherry, Hickory, Ironwood, Hard Maples, Oak and Walnut.

Diameter breast height (DBH) means the diameter of trees at breast height, measured 4½ feet (54 inches) above the ground.

Drip line means the farthest distance away from the trunk of a tree that rain or dew will fall directly to the ground from the leaves or the branches of the tree.

Nuisance tree means:

- (1) Any living or standing tree or part thereof infected to any degree with a shade tree disease (See *Shade tree disease*) or shade tree pest;
- (2) Any logs, stumps, branches, firewood or other part of dead or dying trees infected with a shade tree disease or shade tree pest unless properly treated; and
- (3) Any standing dead trees or limbs which may threaten human health or property.

Also included, are noxious or invasive trees such as buckthorn, boxelder, and cottonwood.

Ornamental tree means a small tree, usually less than 30 feet at maturity, often planted for ornamental characteristics such as flowers or attractive bark.

Shade tree disease means Dutch elm disease (*Ophiostoma ulmi* or *Ophiostoma novo-ulmi*), oak wilt (*Ceratocystis fagacearum*) or any other tree disease of epidemic nature.

Significant tree means a healthy tree measuring a minimum of six inches in diameter for hardwood deciduous trees, 19 feet in height or eight inches in diameter for coniferous/evergreen trees, or 12 inches in diameter for common trees, as defined herein.

Specimen tree means a healthy, deciduous hardwood tree measuring equal to or greater than 30 inches in diameter breast height or a healthy coniferous/evergreen tree measuring equal to or greater than 25 feet in height.

Tree preservation plan means a plan prepared by a certified landscape architect or forester indicating all of the significant trees in the proposed development or parcel. The tree preservation plan includes a tree inventory which includes the size, species, and location of all significant trees proposed to be saved and removed on the area of development, and the measures proposed to protect the significant trees to be saved.

Woodland evaluation report means a report prepared by a certified landscape architect, forester, or land surveyor indicating the general location, condition, and species of significant trees on a parcel planned for future development or grading activity. The report must demonstrate that there will be no impact to existing significant trees as part of the development or grading activity. Finally, the report must include the measures proposed to protect significant trees on the site.

(c) *Tree preservation standards for developing properties.*

(1) *Applicability.*

a. A tree preservation plan, or suitable alternatives as determined by the city, shall be submitted and approved for the following activities:

1. New development in any zoning district. A tree preservation plan shall be required as part of any development or subdivision application.
2. Any grading or excavation project that results in the movement of greater than 400 cubic yards of material per acre of site per LEC 105.08.060.
3. If the applicant is able to demonstrate that the proposed development or major grading activity includes no impact to the significant trees on the site, then the applicant may be exempt from the requirement to submit a tree preservation plan. It is the responsibility of the applicant to demonstrate that there are no impacts to significant trees through a woodland evaluation report or some other form of tree survey or study.

b. A tree preservation plan is not required for the following activities:

1. This section does not apply to the issuance of a development approval for a single-family residence on an existing platted lot of record.
2. This section does not apply to the harvesting of trees. For the purposes of this section, the term "harvesting" means cutting or clearing trees for the purposes relating to forestry operations, as defined in LEC 105.12.110. The term "harvesting" does not include the clearing of land for the purposes of development, even where the trees are sold for the purposes of creating lumber for related purposes.

(2) *Tree preservation plan.* All applicants shall submit a tree preservation plan prepared by a certified forester or landscape architect in accordance with the provisions of this section. During the review of an application for a building permit, grading permit or preliminary plat, the tree preservation plan will be reviewed according to the best layout to preserve significant trees and the efforts of the subdivider to mitigate damage to significant trees.

(3) *Tree preservation plan requirements.* The tree preservation plan shall be a separate plan sheets that includes the following information:

- a. The names, certifications, telephone numbers and addresses of the persons responsible for tree preservation during the course of the development project.
- b. Tree inventory. The tree preservation plan must include a tree inventory through one of the following methods:
 - 1. *Tree inventory individual*. An individual inventory including an identification system linked to metal field tags located 4½ feet from grade on all significant trees must be identified on a plan sheet in both graphic and tabular form.
 - 2. *Tree inventory sampling*. In cases of sites with large tracts of significant trees, the city may approve the use of a sampling inventory for all or portions of a site as an alternative to an individual inventory. The sampling inventory must include the methodology for sampling, identification ribbon around the perimeter of the sampling areas, and metal field tags located 4 1/2 feet from grade on all significant trees in the sampling area. Within the sampling area, the quantity, size, species, health and location of all significant trees must be identified on a plan sheet in both graphic and tabular form. Based on sampling, total estimates and locations of healthy significant trees shall be provided.
 - 3. *Tree inventory combination*. With the approval of the city, sites that include both large tracts of significant trees and areas of individual significant trees may utilize a combination of the individual and sampling inventory methods.
- c. Trees that were planted as part of a commercial business such as a tree farm or nursery do not need to be inventoried on an individual tree basis. A general description of the trees and an outer boundary of the planted area must be provided. The burden of proof shall be on the applicant to provide evidence to support the finding that the trees were planted as part of a commercial business.
- d. A listing of healthy significant trees inventoried in subsection (c) (3)b of this section. Dead, diseased or dying trees do not need to be included in the totals.
- e. A listing of the healthy significant trees removed, identified by the metal field tag or some other form of identification used in the tree inventory in subsection (c)(3)b of this section.

- f. A listing of the healthy significant trees to remain, identified by the metal field tag or some other form of identification used in the tree inventory in subsection (c)(3)b of this section.
- g. Outer boundary of all contiguous wooded areas, with a general description of trees not meeting the significant tree size threshold.
- h. Locations of the proposed buildings, structures, or impervious surfaces.
- i. Delineation of all areas to be graded and limits of land disturbance.
- j. Identification of all significant trees proposed to be removed within the construction area. These significant trees should be identified in both graphic and tabular form.
- k. Measures to protect significant trees and city standard tree protection detail.
- l. Size, species, number and location of all replacement trees proposed to be planted on the property in accordance with the mitigation plan, if necessary.
- m. Signature of the persons preparing the plan.

(4) *Implementation.* All sites shall be staked, as depicted in the approved tree preservation plan, and the required tree protection fencing shall be installed around the critical root zone before land disturbance is to commence. The city has the right to inspect the site at any time for compliance with the plan. No encroachment, land disturbance, trenching, filling, compaction, or change in soil chemistry shall occur within the fenced areas protecting the critical root zone of the trees to be saved.

(5) *Allowable tree removal.* Up to 30 percent of the diameter inches of significant trees on any parcel of land being developed may be removed without replacement requirements. Replacement according to the tree replacement schedule is required when removal exceeds more than 30 percent of the total significant tree diameter inches. The following types of trees do not need to be included as part of the tally of tree removals:

- a. Dead, diseased, or dying trees;
- b. Trees that are transplanted from the site to another appropriate area within the city;
- c. Trees that were planted as part of a commercial business, such as a tree farm or nursery; or
- d. Trees that were planted by the current property owner. In making such a determination, the city shall consider consistency of the

age of the trees, any patterns in the location of trees, historical aerial photography and evidence of intentional planting such as invoices, formal planting plans or cost sharing agreements.

(6) *Mitigation plan.*

- a. In any development or grading project where the allowable tree removal is exceeded, the applicant shall mitigate the tree loss by planting replacement trees in appropriate areas within the development in accordance with the tree replacement schedule.
- b. The form of mitigation to be provided by the applicant shall be determined by the city.
- c. The planting of trees for mitigation on residential projects shall be in addition to any other landscape requirements of the city.
- d. All trees, with the exception of ornamental trees, planted as landscaping on commercial or mixed-use projects may be counted towards tree replacement requirements.

(7) *Tree replacement calculations.* 30 percent of the total diameter inches of significant trees on the site may be removed without replacement. Any percentage over 30 shall be replaced. The following calculation procedure must be used to determine tree replacement requirements:

- a. Tally the total number of diameter inches of all significant trees on the site.
- b. A calculation must be provided which breaks out the number of inches removed for hardwood, evergreen/deciduous, and common trees. The 30 percent removal figure applies to each category individually and trees are replaced according to the tree replacement schedule in subsection (c)(8) of this section.

(8) *Tree replacement schedule.* Tree removals over the allowable tree removal limit on the parcel shall be replaced according to the following schedule:

- a. Common tree species shall be replaced with new trees at a rate of one-fourth the diameter inches removed.
- b. Coniferous/evergreen tree species shall be replaced with new coniferous or evergreen trees at a rate of one-half the diameter inches removed. Since coniferous species are often sold by height rather than diameter inch, the following conversion formula can be used: Height of Replacement Coniferous Tree/2 equals Diameter Inches of Credit.

- c. Hardwood deciduous tree species shall be replaced with new hardwood deciduous trees at a rate of one-half the diameter inches removed.
 - d. Replacement tree size. Replacement trees must be a minimum of one inch in diameter.
- (9) *Species requirement.* The city must approve all species used for tree replacement. Ornamental trees are not acceptable for use as replacement trees. Where ten or more replacement trees are required, not more than 30 percent of the replacement trees shall be of the same species of tree. Native species are encouraged, and hardiness and salt tolerance should be considered where applicable.
- (10) *Warranty requirement.* Any replacement tree which is not alive or healthy, as determined by the city, or which subsequently dies due to construction activity within two years after the date of project closure shall be removed by the applicant and replaced with a new healthy tree meeting the same minimum size requirement within eight months of removal.
- (11) *Protective measures.* The tree preservation plan shall identify and require the following measures to be utilized to protect significant trees planned for preservation:
 - a. Installation of snow fencing or polyethylene laminate safety netting placed at the drip line or at the perimeter of the critical root zone, whichever is greater, of significant trees, specimen trees and significant woodlands to be preserved. No grade change, construction activity, or storage of materials shall occur within this fenced in area.
 - b. Identification of any oak trees requiring pruning between April 15 and July 1. Any oak trees so pruned shall be required to have any cut areas sealed with an appropriate nontoxic tree wound sealant.
 - c. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.
 - d. Removal of any nuisance trees located in areas to be preserved.
- (12) *Compliance with the tree preservation plan.* The applicant shall implement the tree preservation plan prior to and during any construction. The tree protection measures shall remain in place until all land disturbance and construction activity is terminated or until a request to remove the tree protection measures is made to, and approved by, the city.
 - a. No significant trees shall be removed until a tree preservation plan

is approved and except in accordance with the approved tree preservation plan.

- b. The city shall have the right to inspect the development and/or building site in order to determine compliance with the approved tree preservation plan. The city shall determine whether the tree preservation plan has been met.
- c. Irreparable damage. Where the city determines that irreparable damage has occurred to a healthy significant tree that is designated to be preserved as part of the tree preservation plan, the tree shall be removed and replaced, and protective fencing shall be provided.
- d. Instances where one or more significant trees are removed due to development or disturbed, which was not noted on the landscaping or tree removal plan will result in a one to one replacement penalty regardless if it is over the 30 percent allowance.

(d) *Financial security.* In cases where mitigation or tree replacement is required, the city may require that a financial security, in a form acceptable to the city, be provided as part of a development agreement or applicable permit to ensure compliance and performance of the mitigation plan. The financial security will be released to the applicant upon verification by the city that the mitigation plan was followed, and that all replacement trees are planted and in a reasonable state of health. The financial security may be used to replace any replacement trees that have become damaged or diseased after planting.

(e) *Exceptions.*

(1) *Exception standards.* Notwithstanding the city's desire to accomplish tree preservation and protection goals, there may be instances where these goals are in conflict with other city objectives. These conflicts will most likely occur on small, heavily-wooded parcels. Developers may ask for exceptions through the variance process as indicated in LEC 105.12.320. Exceptions may be granted if all of the following conditions exist:

- a. It is not feasible to combine the subject parcel with adjacent parcels that could use the parcel as required green space;
- b. Strict adherence to the tree preservation ordinance would prevent reasonable development that is consistent with the comprehensive plan and desirable to the city on the parcel; and
- c. The exception requested is the minimum needed to accomplish the desired development.

- (2) *Reduced mitigation for exceptions.* If an exception is granted, relief from the requirements of the ordinance may take the form of reduced mitigation requirements, greater allowable tree removal, higher thresholds for determining significant trees, or any combination of the above. The city council will determine which form of relief best balances the objectives of the city and tree preservation. The council may require payment of park dedication fees; woodland management practices; or planting of replacement trees on city property under direction of the public works director as a condition of variance approval.

(Code 2007, § 154.257; Ord. No. 08-077, 5-7-2013; Ord. No. 08-220, § 1, 1-15-2019)

105.12.480 Landscape Requirements

All development sites shall be landscaped, as provided in this section, in order to control erosion and runoff, moderate extremes of temperature and provide shade, aid in energy conservation, preserve habitat, provide visual softening of, especially, urban development, and generally enhance the quality of the physical environment within the city.

- (a) *Landscape plan required.* A landscaping plan is required for all new commercial, industrial, institutional, and multifamily development, all planned unit developments, and all subdivisions, with the exception of minor subdivisions, as defined in this chapter. The landscape plan shall be prepared by a certified landscape architect and include the following:
 - (1) The location, size, quantity, and species of all existing and proposed plant materials.
 - (2) Methods for protecting existing trees and other landscape material, consistent with LEC 105.12.470.
 - (3) Structural and ground cover materials.
 - (4) Provisions for irrigation and other water supplies.
 - (5) Details and cross-sections of all required screening.
 - (6) Special planting instructions.
 - (7) City standard plan notes and drawings.
 - (8) Utilities and driveways shall also be clearly shown on the plans.
- (b) *Design considerations.* The following design concepts and requirements shall be considered when developing a landscape plan.
 - (1) To the maximum extent possible, the landscape plan shall incorporate existing trees and other vegetation on the site.

- (2) Landscaped areas should be of adequate size to allow proper plant growth, protect plantings from vehicular and pedestrian traffic, and provide adequate areas for plant maintenance.
- (3) A variety of trees and shrubs should be used to provide visual interest year-round. No more than 50 percent of the required number of trees and shrubs may consist of any one species. A minimum of 25 percent of the required number of trees shall be deciduous shade trees, and a minimum of 25 percent shall be coniferous trees. Ornamental trees may be used when applied towards landscaping requirements. However, the number of trees shall not exceed 15 percent of the required amount.
- (4) Final slopes greater than 3:1 will not be permitted without special treatment such as terracing, retaining walls, or special ground covers.
- (5) All plant materials, except trees planted per the tree replacement schedule, shall meet the following minimum size standards in Table 6-1. Trees planted per the tree replacement schedule shall meet the minimum requirements outlined in LEC 105.12.470(c)(8)d.

Table 6-1: Minimum Size Standards for Landscape Materials

<i>Plant Type</i>	<i>Minimum Size at Planting</i>
Trees:	
Evergreen	6 feet in height
Deciduous--shade	2.5 inches caliper, measured six inches from base
Deciduous--ornamental	2 inches caliper, measured six inches from base
Shrubs:	
Evergreen	# five container*
Deciduous	# five container*
Shrubs used for screening (evergreen or deciduous)	# five container*
* Approximately five gallons. See American Standards for Nursery Stock, ANSI 260.1-2004 for exact specifications.	
* This table and its requirements do not apply to the tree replacement schedule.	

- (6) As an alternative to the minimum standards for landscape materials, a landscape plan prepared by a qualified professional certifying that said

plan will meet the intent of this section may be submitted.

- (7) As a general rule, trees should be planted ten feet away from all utilities including water and sewer stubs unless approved by the city's landscape architect.

(c) *Landscaping of setback areas.* All required setbacks not occupied by buildings, parking, paths or plazas shall be landscaped with turf grass, native grass, trees, shrubs, vines, perennial flowering plants, and surrounding pervious ground cover.

- (1) A minimum of one tree shall be planted for every 50 feet of street frontage, lake shore or stream frontage, or fraction thereof.
 - a. Trees adjacent to streets shall be planted within the front yard and may be arranged in a cluster or placed at regular intervals to best complement existing landscape design patterns in the area.
 - b. Salt tolerance and root structure should be considered when selecting tree species adjacent to streets, sidewalks and parking areas.
 - c. Where property abuts a lake or stream, trees shall be planted at intervals of no more than 50 feet along the shoreline, except where natural vegetation is sufficient to meet this requirement.
- (2) In addition to the requirements of subsection (c)(1) of this section, a minimum of five trees shall be planted for every one acre of land that is disturbed by development activity. Such trees may be used for parking lot landscaping or screening as specified in subsections (d) and (e) of this section.

(d) *Interior parking lot landscaping.* The purpose of interior parking lot landscaping is to minimize the expansive appearance of parking lots and provide shaded parking areas. Landscaping shall consist of planting islands, medians and borders, comprising the required planting area specified under subsection (d)(1) of this section.

- (1) At least five percent of the interior area of parking lots with more than 30 spaces shall be devoted to landscape planting areas. Areas may consist of islands or corner planting beds.
- (2) Shade trees shall be provided within the interior of parking lots (in islands or corner planting beds) in accordance with the following table:

Table 6-2: Minimum Required Tree Planting for Parking Lots

<i>Number of Parking Spaces</i>	<i>Minimum Required Tree Planting</i>
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0--30	None required
31--100	1 tree per ten spaces or fraction thereof
101+	1 tree per 15 spaces or fraction thereof

(e) *Perimeter parking lot landscaping.* Parking areas shall be screened from public streets and sidewalks, public open space, and adjacent residential properties. The perimeter of parking areas shall be screened as follows:

- (1) A landscaped frontage strip at least five feet wide shall be provided between parking areas and public streets, sidewalks, or paths. If a parking area contains over 100 spaces, the frontage strip shall be increased to eight feet in width.
 - a. Within the frontage strip, screening shall consist of either a masonry wall, fence, berm, or hedge or combination that forms a screen a minimum of 3½ and a maximum of four feet in height, and not less than 50 percent opaque on a year-round basis.
 - b. Trees shall be planted at a minimum of one deciduous tree per 50 linear feet within the frontage strip.
- (2) Alongside and rear property lines abutting residential properties or districts, screening shall be provided, consisting of either a masonry wall, fence or berm in combination with landscape material that forms a screen a minimum of four feet in height, a maximum of six feet in height, and not less than 90 percent opaque on a year-round basis. Landscape material shall include trees, planted at a minimum of one deciduous or coniferous tree per 40 linear feet along the property line.

(f) *Screening.* Screening shall be used to provide visual and noise separation of intensive uses from less intensive uses. Where screening is required in the city Code between uses or districts, it shall consist of either a masonry wall or fence in combination with landscape material that forms a screen at least six feet in height, and not less than 90 percent opaque on a year-round basis. Landscape material shall include trees, planted at a minimum of one deciduous or coniferous tree per 40 linear feet along the property line. Additional landscape material, such as shade trees or trellises, may be required to partially screen views from above.

(g) *Maintenance and installation of materials.* Installation and maintenance of all landscape materials shall comply with the following standards:

- (1) All landscape materials shall be installed to current industry standards.
- (2) Irrigation or other water supply adequate to support the specified plant

materials shall be provided.

- (3) All required landscaping and screening features shall be kept free of refuse and debris.
- (4) All landscape materials shall be guaranteed for two years. Any landscape material that dies or becomes diseased before the end of the second year after installation shall be replaced by the developer.
- (5) Continuing maintenance and replacement of landscape materials shall be the responsibility of the property owner beyond two years of initial installation.

(h) *Financial security.* The city will require that a financial security, in a form acceptable to the city, be provided as part of a development agreement or applicable permit to ensure compliance and performance of the landscape plan. The financial security will be released to the applicant upon verification by the city that the landscape plan was followed, and that all landscape materials are planted and in a reasonable state of health. The financial security may be used to replace any landscape materials that have become damaged or diseased after planting. Adequate security must be retained to ensure performance for at least two years after the installations have been completed.

(Code 2007, § 154.258; Ord. No. 08-087, 8-20-2013; Ord. No. 08-220, § 2, 1-15-2019)

ARTICLE IX SPECIFIC DEVELOPMENT STANDARDS

[105.12.490 Purpose And Applicability](#)

[105.12.500 Standards For Residential And Related Uses](#)

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[105.12.530 Standards For Automotive/Vehicular Uses](#)

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105.12.490 Purpose And Applicability

Specific development standards are established as supplemental regulations that address the unique characteristics of certain land uses. The standards and conditions listed below apply to both permitted and conditional uses, in addition to all other applicable regulations of this article. Standards shall apply in all zoning districts where the use in question is allowed. Standards for uses that apply only within specific districts are listed within the articles pertaining to those districts.

(Code 2007, § 154.300; Ord. No. 08-080, 5-21-2013)

105.12.500 Standards For Residential And Related Uses

- (a) *Group home.* A group home is a specific use type located within a single-family dwelling, and therefore shall meet all zoning standards applicable to single-family dwellings, including setbacks, lot area, lot coverage, and off-street parking. License capacity shall not exceed six persons per facility, plus support staff.
- (b) *Group residential facility, halfway house.*
 - (1) In residential districts, the facility shall occupy a residential building type permitted within the district where it is located, and shall meet all zoning standards applicable to that building type.
 - (2) On-site services shall be for residents of the facility only.
- (c) *Congregate housing (assisted living).*
 - (1) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of existing building and surrounding neighborhood.
 - (2) The site shall contain a minimum of 50 square feet of green space per resident, consisting of outdoor seating areas, gardens and/or recreational facilities. In cases of unique circumstances, the city may consider public parks or plazas within 300 feet of the site to meet this requirement. It is the responsibility of the applicant to demonstrate why the green space cannot be located on site.
 - (3) An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the neighborhood.
- (d) *Semi-transient accommodations (boardinghouses, roominghouses, etc.).*
 - (1) The operator shall submit a management plan for the facility and a floor plan showing sleeping areas, emergency exits and bathrooms.
 - (2) All new construction or additions to existing buildings shall be compatible with the scale and character of the existing building and surrounding neighborhood.
 - (3) An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the neighborhood.
- (e) *Temporary health care dwellings.* Pursuant to authority granted by M.S.A. § 462.3593, subd. 9, the city opts-out of the requirements of M.S.A. § 462.3593, which defines and regulates temporary family health care dwellings. By exercising this authority, the city is prohibiting the use of temporary family health

care dwellings within the city.

(Code 2007, § 154.301; Ord. No. 08-080, 5-21-2013; Ord. No. 08-151, 8-16-2016)

105.12.510 Standards For Services

- (a) *Educational services.* Except in the industrial districts, all typical activities shall be conducted within an enclosed building.
- (b) *Medical facilities.* The facility shall have access to an arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate. A minimum of two access points shall be provided.
 - (1) Any new hospital or expansion of an existing hospital shall submit a master plan that shall describe proposed physical development for at least a ten-year period, and shall include a description of proposed development phases and plans, estimated dates of construction and anticipated interim uses of property.
 - (2) Landing pads for helicopters involved in emergency rescue operations, and helicopter flight paths shall meet all applicable federal and state requirements.
- (c) *Nursing and personal care.*
 - (1) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the existing building and surrounding neighborhood.
 - (2) The site shall maintain a minimum of 50 square feet of green space per resident, consisting of outdoor seating areas, gardens and/or recreational facilities. In cases of unique circumstances, the city may consider public parks or plazas within 300 feet of the site to meet this requirement. It is the responsibility of the applicant to demonstrate why the green space cannot be located on site.
 - (3) An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the neighborhood.
- (d) *Self-service storage facility.*
 - (1) No commercial transactions shall be permitted other than the rental or sale of storage units.
 - (2) No more than one unit shall be accessed directly from the public street.
 - (3) Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern.

(Code 2007, § 154.303; Ord. No. 08-080, 5-21-2013)

105.12.520 Standards For Food Services

(a) *Restaurant with drive-through.*

- (1) Drive-through elements shall not be located between the front facade of the principal building and the street. No service shall be rendered, deliveries made or sales conducted within the required front yard, although tables may be provided for customer use.
- (2) Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern. Adequate queuing lane space shall be provided, without interfering with on-site parking/circulation.
- (3) Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building, and with a similar level of architectural quality and detailing.
- (4) Sound from any speakers used on the premises shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.
- (5) Each food or beverage drive-through business shall place refuse receptacles at all exits.

(b) *Drinking and entertainment.* Music or amplified sounds shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.

(Code 2007, § 154.304; Ord. No. 08-080, 5-21-2013)

105.12.530 Standards For Automotive/Vehicular Uses

(a) *Car wash.*

- (1) The car wash shall be capable of being enclosed when not in operation.
- (2) Any access drive shall be located at least 30 feet from any public street intersection, measured from the interior curb line commencing at the intersection of the street.
- (3) Any car wash line exit shall be at least 30 feet distant from any street line.
- (4) Sound from any speakers used on the premises shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.

- (5) Water from the car wash shall not drain across any sidewalk or into a public right-of-way.

(b) *Gasoline station.*

- (1) *Lot size and access.* A gasoline station site shall be a minimum of 20,000 square feet in size and shall have access to a collector or higher classification street.
- (2) *Performance standards.* A drainage system subject to the approval of the city engineer shall be installed. The entire site, with the exception of the area taken up by the structure, landscaping and pump islands, should be surfaced with asphalt, concrete or other material approved by the city.
- (3) *Repairs in an enclosable building.* All vehicle repairs shall be conducted in a building capable of being enclosed when not in use.
- (4) *Vehicles.* No vehicles other than those utilized by employees or awaiting service shall be parked on the premises overnight. No vehicle shall be parked or awaiting service longer than 15 days.
- (5) *Canopies.* Canopies shall be located no closer than 20 feet from any property line. Any lighting on the underneath side of the canopy shall be recessed mounted with flush lenses and downward directed. Signage on canopies shall comply with LEC 105.12.430. Canopy columns and fascia should reflect the design and/or materials of the principal building.
- (6) *Screening of storage areas.* The storage or display of inoperable or unlicensed vehicles not awaiting service as in subsection (b)(4) of this section or other equipment, and all trash storage or disposal facilities, shall meet all setback requirements of a structure, and shall be screened from view from adjacent public streets and adjacent residential properties. Screening shall meet the requirements of LEC 105.12.480.
- (7) *Outdoor display.* Exterior display of items offered for sale shall meet all building setback requirements and shall be located in containers, racks or other structures designed to display merchandise.
- (8) *Accessory uses.* The following accessory uses shall require a separate conditional use permit:
 - a. Automatic car and truck wash.
 - b. Rental of vehicles, equipment or trailers.
 - c. General retail exceeding 2,500 square feet in floor area.

(c) *Sales and storage lots.*

- (1) *Size and location.* The site shall be a minimum of 20,000 square feet in

size and shall have access to a collector or higher classification street. Vehicular access to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.

- (2) All vehicle repairs shall be conducted in a completely enclosed building.
- (3) A site plan shall be submitted showing the layout of vehicles for sale or rent, employee parking and customer parking.
- (4) Sound from any speakers used on the premises shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.

(Code 2007, § 154.305; Ord. No. 08-080, 5-21-2013; Ord. No. 08-152, 10-1-2016)

105.12.540 Standards For Outdoor Recreation Uses

(a) Golf course.

- (1) *Location.* The facility shall have access to a collector or higher classification street. A minimum of two entry points to such facilities shall be provided.
- (2) *Site plans.* Site plans for such facilities shall indicate all proposed recreation areas, building uses and locations, sanitary facilities, storage areas, parking, circulation and other information needed to assess the impacts of the proposed operation on surrounding properties and the road network.
- (3) *Accessory uses.* The following accessory uses are permitted in conjunction with a golf course: A driving range, putting greens, pro shop, club house and locker facilities, maintenance buildings, course shelters, and cart storage facilities. Other accessory uses may require a separate conditional use permit.
- (4) *Resource protection.* Golf courses shall be designed with consideration of environmental resources, including:
 - a. Water recycling and conservation through on-site storage and use facilities;
 - b. Use of landscaped buffers and other best management practices (BMPs) to minimize fertilizer runoff and other chemicals from entering surface water bodies; and
 - c. Use of landscaping and site layout to preserve and enhance wildlife habitat.
- (5) *Buffering.* A planted buffer may be required to screen adjacent residential

and other uses.

- (6) *Other conditions.* Other conditions may be imposed to mitigate the potential impacts of the use.

(b) *Outdoor entertainment, restricted recreation.*

- (1) *Location.* The facility shall have access to a collector or higher classification street. A minimum of two entry points to such facilities shall be provided.
- (2) *Site plans.* Site plans for such facilities shall indicate all proposed recreation and entertainment areas, sanitary facilities, storage areas, parking, circulation, estimated noise levels, and other information needed to assess the impacts of the proposed operation on surrounding properties and the road network. Conditions may be imposed to mitigate the potential impacts of the use.

- (c) *Outdoor recreation facility.* Facilities that would generate substantial traffic, such as playing fields or aquatic centers, shall be located with access to a street of sufficient capacity to accommodate the traffic that the use will generate. A minimum of two entry points to such facilities shall be provided.

(Code 2007, § 154.306; Ord. No. 08-080, 5-21-2013)

105.12.550 Standards For Indoor Recreation/Amusement

Indoor athletic facility, indoor recreation. Facilities that would generate substantial traffic shall be located with access to a street of sufficient capacity to accommodate the traffic that the use will generate. A minimum of two entry points to such facilities shall be provided.

(Code 2007, § 154.307; Ord. No. 08-080, 5-21-2013)

105.12.560 Standards For Alternative Energy

(a) *Solar farms.*

- (1) *Conditional or interim use permit.* A conditional or interim use permit subject to the zoning district in which the proposed solar farm is to be located.
- (2) *Minimum lot size, setbacks, and screening requirements.* Solar farms are limited to properties at least ten acres in size. Solar farms must maintain a setback of at least 50 feet from adjacent properties and be screened and fenced as determined by the city from adjacent residential properties.
- (3) *Stormwater and NPDES.* Solar farms are subject to the city's and

watershed district's stormwater management and erosion and sediment control provisions and NPDES permit requirements.

- (4) *Foundations.* A qualified engineer shall certify that the foundation and design of the solar panels, racking and support is within accepted professional standards, given local soil and climate conditions.

- (b) *Wind generator systems.* Wind generator systems are allowed as an accessory or principal use with a conditional use permit in the rural and commercial districts. The system must comply with all standards described herein. Applicants should check for compliance with local utility, state, and federal laws before construction.

- (1) *Application.* An application for a wind generator shall follow the application and review procedures for a conditional use permit as specified in LEC 105.12.290. In addition to the submission requirements of LEC 105.12.290, an application for a wind generator shall include the following:

- a. A report from a professional engineer describing the proposed wind generator and certifying the safety of the device.
- b. Appropriate certifications as required by a nationally recognized testing laboratory. Self-certification is not allowed.
- c. A statement indicating that the proposed wind generator is in compliance with all applicable regulations of the Federal Aviation Administration where appropriate.
- d. All necessary information relating to site (site plan) and system design.

- (2) *Specific standards for ground-mounted systems.*

- a. *Maximum height.* 125 feet, including the system as a whole, from the base to the highest point.
- b. *Setbacks.* At least 1.25 times the height of the wind generator from any lot line, shoreland overlay district boundary, and any utility lines and public or private road way. A setback of at least 200 feet is required from any principal structure on adjacent properties within the Rural Districts.
- c. *Rotors.* Rotors or moving parts are required to be at least 30 feet above the ground and 30 feet above any obstruction equal to its height from the base. Rotor diameter shall not exceed 52 feet or a blade length of 26 feet.
- d. *Minimum lot size.* There is no minimum lot size on which a wind

generator may be constructed unless there is more than one wind generator per parcel, provided required setbacks are met.

- e. *Number.* For parcels on which there are more than one wind generator, the number of wind generators allowed is limited to one system per five acres, and all systems must meet minimum setback requirements.

(3) *Specific standards for roof/structure mounted systems.*

- a. *Height.* Subject to the maximum building height specified for the district in which it is constructed.
- b. *Setbacks.* Must be set back a distance equal to its height away from utility lines, and the location must support the structure.
- c. *Rotors.* Moving parts may not be located below the roof line on which the system is mounted.
- d. *Number.* The number of roof/structure mounted systems allowed is limited to one system per building within rural districts and is limited to the manufacturer's setback recommendations within commercial districts.

(4) *General standards.*

- a. *Design.* All turbines shall be commercially available and not prototype turbines. Each wind generator shall be equipped with both a manual and automatic braking device capable of stopping the operation in high winds. No components unnecessary to the operation of the wind generator shall be allowed.
- b. *Maintenance.* Wind generators shall be inspected and maintained under agreement or contract by the manufacturer or other qualified entity. The owner of the wind generator must have the tower inspected by a licensed qualified professional and submit to the city a report on the status and condition of the wind generator. The times of inspection shall be specified by the manufacturer or at a minimum of every two years. Routine maintenance, including, but not limited to, painting, part replacement, etc., shall be done as necessary but does not require a report to be submitted.
- c. *Climbing.* To prevent unauthorized climbing, such apparatus shall not be located within 12 feet of the ground, and a locked anti-climb device shall be installed on the tower.
- d. *Signage.* Properties with wind generators shall have at least one sign posted at the entrance of the property or structure on which the wind generator is mounted, containing the following

information: voltage information, manufacturer's name, emergency telephone number, and emergency shutdown procedures. There shall also be signs located on transformers and substations which are directly connected to the system. Systems shall not be used for displaying any advertising, nor for other uses, including, but not limited to, cell phone antennas, flags, ham radio antennas, etc.

- e. *Lightning*. All wind generators shall be protected against lightning strikes.
- f. *Aviation*. No wind generator shall be located in a way that will create an obstruction to navigable airspace of public and private airports in the state. Wind generators are prohibited in the city airport safety zone.
- g. *Feeder lines*. The electrical collection system (wind generator) shall be placed underground within the interior of each parcel. They may run through public water ways subject to DNR, FWS, and or USACOE permits.
- h. *For all guyed towers*. Visible and reflective objects, such as plastic sleeves, reflectors or tape shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight feet above the ground.
- i. *Screening*. Wind generator are exempt from the screening requirements.
- j. *Aesthetics*. The appearance of the wind generator, tower and any other related components shall be maintained throughout the life of the wind generator per the manufactures/industry standards. Ground-mounted wind generators shall be installed on tubular and monopole design towers.
- k. *Color*. Wind generators shall be uniform in color, white or off-white, grey, or another non-obtrusive color. Finishes shall be matte or non-reflective.
- l. *Vibration*. No wind generator shall produce vibrations through the ground that are perceptible beyond the property on which it is located.
- m. *Noise*. Wind generator shall comply with language outlined in LEC 13.04.070.
- n. *Lighting*. Systems shall not be illuminated unless required by the Federal Aviation Administration (FAA), state, or federal regulations.
- o. *Electrical certification*. Batteries or other energy storage device

shall be designed consistent with the state electrical code and state fire code. Wind generators must also meet the standards established by the International Electrotechnical Commission (IEC).

- p. *Intent to install.* Prior to installation of a wind generator, the applicant must show proof that the utility provider has given consent to connect to the grid. Off-grid systems are exempt from this requirement.

(5) *Decommissioning.*

- a. *Generally.* A wind energy systems shall be maintained at all times according to the manufacture's specifications. If a wind generator has become unstable, leans significantly out-of-plumb, or poses a danger of collapse, it shall be removed or brought into repair within 60 days following notice by the building official to the owner of the lot upon which the system is located. The building official may order immediate repairs if, in the opinion of the building official, the generator will imminently collapse or if a safety risk is being posed. If the owner of a wind generator plans to abandon or discontinue, or is required to discontinue, the operation of the system, the owner shall notify the building official by certified U.S. mail of the proposed date of abandonment or discontinuation. Such notice shall be given no less than 30 days prior to abandonment or discontinuation. In the event that an owner fails to give such notice, the wind energy system shall be considered abandoned if the wind energy system is not operated for a continuous period of 12 months. At such point, the owner has the option to either fully abandon and remove the system or submit a new application for operation of the system.
- b. *Removal.* Upon abandonment or discontinuation of use, the property owner shall physically remove the wind energy system as soon as practical, considering the weather conditions within six months from the date of abandonment or discontinuation of use. The term "physically remove" includes, without limitation, the actual, complete removal of the tower, turbine, and all other components of the wind energy system from the site of the original installation.
- c. *Site restoration.* The owner shall, upon decommissioning/abandonment, as soon as practical, considering the weather, restore the area affected by any wind generator to the condition that existed immediately before construction began, to the extent possible. The time period may be no longer than six months after decommissioning of the turbine, unless otherwise

negotiated with the building official. Restoration shall be compatible with the safe operation, maintenance, and inspection of the city. All costs associated with the restoration of the site will be the responsibility of the property owner.

- d. *Transfer of ownership.* Permits are not transferrable. If the portion of property containing the wind generator is sold, the new owner must apply for a new wind generator permit or remove the system per the decommissioning plan.

(Code 2007, § 154.308)

105.12.570 Standards For Accessory Uses

(a) Bed and breakfast.

- (1) The use of a bed and breakfast is not permitted unless the city issues a permit for that specific property. The permit will be valid for two years. A permit for a bed and breakfast will only be issued if:
 - a. The facility is located in a single-family detached dwelling.
 - b. The number of lodging rooms in any building does not exceed five. If the proposed number of lodging rooms in any building exceeds five, a conditional use permit shall be required.
 - c. The facility meets parking requirements as set forth by Table 5-2 of LEC 105.12.410.
- (2) The applicant shall meet all applicable government regulations.
- (3) The operator shall carry liability insurance, and shall provide proof of such insurance to the city upon request.
- (4) Permits are non-transferable and do not run with the land.
- (5) A permit constitutes a limited license granted to the property owner by the city and in no way creates a vested zoning right.
- (6) By signing the permit, the applicant of the bed and breakfast permit acknowledges that he shall defend and indemnify the city against any and all claims arising out of operating a bed and breakfast.
- (7) Bed and breakfast permit fees shall be as established by the city council.

(b) Drive-through facility.

- (1) Drive-through elements shall not be located between the front facade of the principal building and the street.

- (2) Plans for on-site circulation and driveway locations shall be reviewed as part of the conditional use review process. Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern. Adequate queuing lane space shall be provided, without interfering with on-site parking/circulation.
 - (3) Alley access to drive-through lanes is prohibited on any block containing a residential district, except for commercial deliveries when approved by the city engineer.
 - (4) Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building, and with a similar level of architectural quality and detailing.
 - (5) Sound from any speakers used on the premises shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.
 - (6) An emergency exit lane shall be provided for uses queuing through the drive-through lanes, without interfering with on-site parking/circulation.
- (c) *Commercial wedding ceremony venue.* A commercial wedding venue is allowed as an accessory use with an interim use permit in the A Agriculture, RT Rural Transitional, and RR Rural Residential Zoning Districts on parcels greater than ten acres in size. The establishment of a commercial wedding venue on RR parcels is limited to those sites meeting the following criteria:
- (1) The site has historically been used as a farmstead for the surrounding agricultural land; and
 - (2) The use will incorporate a barn or other historical agricultural building over 75 years of age for the wedding ceremonies.

The suitability of a parcel for a wedding venue shall be determined by the characteristics of the site and by the unique capacity of the parcel to accommodate the use while preserving the essential rural character of the neighborhood and the site on which the use is located, by the ability of the parcel to accommodate the use without negative impact on the general health, safety, and welfare of the community, and by other factors the city may deem appropriate for consideration. The use must adhere to the following standards:

- a. *Ownership.* The property will be the primary residence of the venue operators. The operator must be on the premises for the duration of each event.
- b. *Maximum number of guests.* The maximum number of guests is limited to 200 for each event.

- c. *Food and beverages.* The serving of food and beverages is permitted only as part of the ceremony.
- d. *Seasonal operation.* Ceremonies are limited to no more than twice per week and are permitted only during the months of May through October.
- e. *Hours of operation.* Events shall only be allowed between the hours of 10:00 a.m. and 10:00 p.m. All guests and staff must vacate the premises by 10:00 p.m. All lights associated with the event must be turned off by 10:00 p.m. Any one ceremony is limited to a maximum duration of three hours.
- f. *Overnight accommodations.* No overnight accommodations are allowed.
- g. *Off-street parking.* Off-street parking shall be required in the ratio of one parking space for each three attendees based on the maximum number of attendees planned for the site. The off-street parking area and the number of parking spaces shall be documented on the required site plan. Off street parking shall be exempted from the paving and curbing requirements in LEC 105.12.410.
- h. *Setbacks.* The minimum setbacks from neighboring houses and property lines for the various activities associated with the wedding venue shall be as follows:
 - 1. Parking: 100 feet from residential property lines; 200 feet from neighboring houses.
 - 2. Outdoor activity spaces: 300 feet from residential property lines; 400 feet from neighboring houses.
 - 3. Indoor activity spaces: 300 feet from residential property lines; 400 feet from neighboring houses.
- i. *Landscaping/screening.* Landscaping may be required to buffer the use from adjacent land uses and to provide screening when such screening does not presently exist on the site. A landscape plan shall be submitted at the time of application for an interim use permit.
- j. *Grading.* Any proposed grading shall observe all requirements of LEC 105.08.060. If a grading plan is required, it shall be submitted in conjunction with an application for an interim use permit.
- k. *Traffic.* A transportation management plan shall be submitted as part of an application for an interim use permit. The plan shall

address traffic control, including traffic movement to the public street system and impact on the surrounding roadways.

1. *Structures.* All existing or proposed structures to be used for the wedding ceremony venue shall be inspected by the city building official and must meet applicable building code requirements.
2. *Temporary structures.* Temporary structures, including tents and canopies, may be allowed. Tents and canopies may be erected no more than one day prior to an event and must be removed no more than 72 hours following the event.

l. *Application.* An application for a commercial wedding venue shall follow the application and review procedures for an interim use permit as specified in LEC 105.12.300. In addition to the submission requirements of LEC 105.12.300, an application for a commercial wedding venue shall include the following information:

1. The expected number of attendees per ceremony;
2. The number of ceremonies per year;
3. The number of employees;
4. The hours of operation;
5. Sanitary facilities;
6. Lighting;
7. Sound amplification to be used and a plan to minimize any amplified sounds;
8. Temporary structures or tents to be used in association with the planned events;
9. Signage;
10. Security to be provided;
11. Location of all trash receptacles;
12. Traffic management plan;
13. Other documentation as specified herein.

m. *Sanitary facilities.* Sanitary facilities adequate for the number of attendees shall be provided. Portable toilets may be approved for temporary use, and must be screened from view from roads and

neighboring properties by landscaping or a wooden enclosure. No portable toilets shall be located closer than 400 feet from a neighboring residential structure.

- n. *Lighting*. Lighting associated with the wedding venue shall be limited to downcast and shielded fixtures so that the source of the light is not visible from adjacent roads or neighboring properties. Lighting shall comply with LEC 105.04.050.
- o. *Noise*. All wedding venues shall comply with city's noise standards found in LEC 13.04.070 through LEC 13.04.100.
- p. *Sound amplification*. Amplification of music and participants and is allowed only in conjunction with a wedding ceremony. There shall be no other amplification of music or sound outside of the ceremony.
- q. *Waste*. All solid waste must be stored in a manner that prevents the propagation, harborage, or attraction of flies, rodents, or other nuisance conditions and must be removed at least once every seven days by a licensed solid waste hauler.
- r. *Liability*. The applicant shall secure adequate liability coverage, which shall be in place at least one week prior to any event.
- s. *Other activities*. Other than the commercial wedding ceremonies authorized under this section, no other commercial ceremonial activities may be conducted on the site.

(d) *Home occupations*. Home occupations shall be considered a permitted accessory use. The purpose of home occupation standards are to ensure that the activities are clearly secondary to the intended use of the dwelling and to ensure that the business is compatible with surrounding residential uses. All home occupations must comply with the criteria set forth below.

(1) *Permitted home occupations*.

- a. A home occupation may include, but is not limited to:
 - 1. Home office.
 - 2. Hair salons not serving more than two customers at a time.
 - 3. Teaching, though limited to no more than three students at any time.
 - 4. Uses which do not alter the character of the locality, do not create a nuisance as outlined in LEC 9.28, and are legally allowed by local, state, and federal law.

- b. Home occupations shall not be interpreted to include:
 - 1. Tourist homes.
 - 2. Restaurants.
 - 3. Disorderly house as defined by M.S.A. § 609.33, subd. 1, as it may be amended from time to time, or similar uses.
 - 4. Sale or use of hazardous materials.
 - 5. Adult establishments as defined in LEC 11.16.
 - 6. Any overnight activities shall not be permitted.

(2) Operation requirements.

- a. The home occupation shall be clearly incidental and subordinate to the residential use of the premises, and shall result in no incompatibility or disturbance to the surrounding area.
- b. Activities associated with the permitted home occupation may only be conducted between the hours of 7:00 a.m. and 10:00 p.m.
- c. No over the counter retail sales may be made unless ancillary to the permitted business.
- d. There shall not be more than one employee who does not customarily reside on the property affiliated with the home occupation.
- e. The use shall not create a nuisance as defined by LEC 9.28.

(3) Site requirements.

- a. Exterior alterations or modifications that change the residential character or appearance of the dwelling unit or accessory structure to that of a commercial nature shall be prohibited.
- b. Interior alterations or modifications shall not eliminate all of the bathrooms, sleeping areas, or kitchens.
- c. Signage. Home occupations are allowed signage in accordance with LEC 105.12.430(g)(1)a and (k)(10).
- d. The operation shall not create a demand for more than three parking spaces at any given time, and no parking for the business shall be on-street. Off-street parking shall be on a durable parking surface such as asphalt, concrete, etc. The off-street parking area required for the principal residential use shall be retained exclusively for the principal use.

- e. Exterior storage. No outside storage or display of products or merchandise is permitted.
- f. No stock in trade over 1,000 cubic feet shall be stored on the premises.

(Code 2007, § 154.310(A), (B), (D), (E); Ord. No. 08-080, 5-21-2013; Ord. No. 08-107, 5-6-2014; Ord. No. 08-128, 2-16-2016; Ord. No. 08-197, § 6(2), 2-7-2018; Ord. No. 08-198, 2-7-2018; Ord. No. 08-199, 2-7-2018)

ARTICLE X ZONING DISTRICTS AND ZONING MAP

[105.12.580 Division Into Districts](#)

[105.12.590 Zoning Map](#)

[105.12.600 Consistency With Comprehensive Plan](#)

105.12.580 Division Into Districts

- (a) *All areas zoned.* The incorporated areas of the city are hereby divided into the following zoning districts:

Table 8-1: Zoning Districts

<i>Zoning District</i>		<i>Reference</i>
R-2	One- and Two-Family Residential	LEC 105.12.150
GB	General Business	LEC 105.12.160
A	Agriculture	Article XI
RR	Rural Residential	Article XI
RT	Rural Development Transitional	Article XI
RS	Rural Single-Family	Article XI
RE	Residential Estate	Article XI
GCC	Golf Course Community	Article XII
LDR	Urban Low Density Residential	Article XII
MDR	Urban Medium Density Residential	Article XII
HDR	Urban High Density Residential	Article XII
VMX	Village Center Mixed-Use	Article XIII
C	Commercial	Article XIV
CC	Convenience Commercial	Article XIV

LC	Neighborhood Office/Limited Commercial	Article XV
BP	Business Park/Light Manufacturing	Article XV
PF	Public Facilities	Article XVII

- (b) *Annexed areas.* Any land that is annexed into the city shall be included in the A Agriculture District until such time as the city council amends the comprehensive plan to include the new area, and rezones it to another district.

(Code 2007, § 154.350; Ord. No. 2012-062, 9-18-2012; Ord. No. 2008-152, 10-4-2016)

105.12.590 Zoning Map

- (a) The location and boundaries of the districts established by this chapter are set forth on the official zoning map, which is hereby incorporated as part of this chapter, and which is on display in the planning department.
- (b) District boundary lines recorded on the zoning map are intended to follow lot lines, the centerline of streets or alleys, the centerlines of streets or alleys projected, railroad rights-of-way lines, the center of watercourses or the corporate limit lines as they exist at the time of the enactment of this chapter.
- (c) Whenever any street, alley or other public way is vacated, the zoning district adjoining that of such vacated street, alley or public way shall be automatically extended to the center of such vacated area and all area included therein shall be then and henceforth subject to all regulations of the extended district.
- (d) It shall be the responsibility of the planning director to maintain and amend the zoning map. The director of planning shall make any corrections or amendments to the map after all of the procedures outlined in LEC 100.00.020 for the making of such revisions or amendments shall have followed by the planning commission and the city council.
- (e) Amendments to the official zoning map shall be recorded on the map within 30 days after adoption by the council. The copy of the official zoning map shall be displayed in the office of the planning department and shall be open to public inspection at all times during which the office is customarily open.

(Code 2007, § 154.351; Ord. No. 2012-062, 9-18-2012)

105.12.600 Consistency With Comprehensive Plan

The zoning districts in this chapter and the delineation of zoning district boundaries on the zoning map are consistent with the goals and policies of the city comprehensive plan.

ARTICLE XI RURAL DISTRICTS

[105.12.610 Purpose](#)

[105.12.620 Permitted, Conditional, And Interim Uses](#)

[105.12.630 Lot Dimensions And Building Bulk Requirements](#)

[105.12.640 Dimensional Requirements And Preservation Of Open Space](#)

[105.12.650 Site Design And Development Standards](#)

[105.12.660 Accessory Uses And Structures](#)

[105.12.670 Accessory Structures, Rural Districts](#)

[105.12.680 Accessory Uses](#)

[105.12.690 Accessory Uses And Structures Not Listed](#)

105.12.610 Purpose

The rural districts are established to provide guidance for existing rural development that is served primarily by on-site wastewater treatment facilities in the city. The objectives of these districts are to preserve and enhance the quality of living in the existing rural areas, as well as regulate structures and uses which may affect the character or desirability of these areas. The rural districts and their purposes are as follows:

- (a) *RT Rural Development Transitional District.* The RT Rural Development Transitional District is an interim holding zone that will regulate land uses within those portions of the city planned and staged for development that will connect to regional sewer service in accordance with the comprehensive plan. The future zoning classification for areas zoned RT and the timing for any zoning map amendments to rezone property in this district will be determined by the city council upon the extension of public sanitary sewer and water services into these areas. In the meantime, agricultural and existing residential uses will be allowed to continue in addition to other uses that are consistent with the A and RR zoning districts.
- (b) *A Agricultural District.* The A Agricultural District will apply to agricultural or undeveloped areas in the city, including any newly annexed areas. The purpose of the district is to allow for agricultural and other activities typically associated with agriculture, including non-farm dwellings at a density of one unit per 40 acres. Future residential development may occur at the aforementioned density or through the open-space preservation development process. These parcels are expected to be served by on-site wastewater treatment facilities. In addition, some limited agriculture-related businesses, such as wayside stands and outdoor recreation, are appropriate short-term or interim uses for this district.
- (c) *RR Rural Residential District.* The RR Rural Residential District is established for lands that have existing small-scale agricultural activity, as well as single-family residential dwellings. Future residential development may occur at a density of one dwelling unit per ten acres, or through the open-space

preservation development process. These sites are expected to be served by on-site wastewater treatment facilities. Some limited agriculture-related businesses, such as wayside stands, are appropriate as interim uses for this district.

- (d) *RS Rural Single-Family District*. The RS Rural Single-Family District is established for lands that have already been platted as conventional residential subdivisions prior to the 2005 adoption of the comprehensive land use plan. Only lots which were part of a subdivision prior to and up to 2005 are eligible for rezoning to RS.
- (e) *RE Residential Estate District*. The purpose of the RE Residential Estate District is to allow for single-family detached dwellings on large lots. The large lots and setbacks provide for an open-space environment that is consistent with the rural character of the city. Planned residential subdivisions are allowed on a minimum of 20 acres (nominal) with an average subdivision density of 3.33 acres per residential unit. Lot sizes should be adequate to provide for on-site wastewater treatment.

(Code 2007, § 154.400; Ord. No. 2012-073, 3-19-2013; Ord. No. 08-242(2), § 1, 2021)

105.12.620 Permitted, Conditional, And Interim Uses

Table 9-1 lists all permitted, conditional, and interim uses allowed in the rural districts. "P" indicates a permitted use, "C" a conditional use, and "I" an interim use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under "Standard" indicate the location within this section of specific development standards that apply to the listed use.

Combinations of uses. Principal and accessory uses may be combined on a single parcel.

Table 9-1: Permitted, Conditional, and Interim Uses, Rural Districts

	<i>R T</i>	<i>A</i>	<i>R R</i>	<i>R S</i>	<i>R E</i>	<i>Standard</i>
Residential Uses						
Household living						
Single-family detached dwelling	P	P	P	P	P	LEC 105.12.650(a)
Secondary dwelling	-	P	-	-	-	LEC 105.12.650(d)
Services						
Self service storage facility	I ^a	I ^a	-	-	-	LEC 105.12.650(g)

Outdoor recreation facility	-	C	-	-	-	LEC 105.12.540(c)
Parks and open areas	P	P	P	P	P	LEC 105.12.110(b) (7)
Restricted recreation	-	C	-	-	-	LEC 105.12.540(b)
Agricultural and Related Uses						
Agricultural entertainment business	I	I	I	-	-	LEC 105.12.1420
Agricultural production	P	P	P	-	-	LEC 105.12.110(b) (9)
Agricultural sales business	I	I	I	-	-	LEC 105.12.1410
Agricultural services	C	C	-	-	-	LEC 105.12.650(j)
Forestry operations	-	P	-	-	-	LEC 105.12.110(b) (9)
Greenhouses, non-retail	C	C	C	-	-	LEC 105.12.110(b) (9)
Solar farm	I	C	C	-	-	LEC 105.12.1440
Wayside stand	P	P	P	-	-	LEC 105.12.110(b) (9)
Industrial and Extractive Uses						
Motor freight and warehousing	I ^a	-	-	-	-	LEC 105.12.650(g)
Accessory Uses						
Bed and breakfast	C	C	C	-	-	LEC 105.12.110(b) (13)
Domestic pets	P	P	P	P	P	LEC 105.12.110(b) (13)
						LEC

Family day care	P	P	P	P	P	105.12.110(b) (13)
Home occupation	P	P	P	P	P	LEC 105.12.110(b) (13)
Kennel, private	C	C	C	-	-	LEC 105.12.110(b) (13)
Solar energy systems	P	P	P	P	P	LEC 105.04.220(c)
Stable, private	C	C	C	-	-	LEC 105.12.110(b) (13)
Swimming pools, hot tubs, etc.	P	P	P	P	P	LEC 105.08.160
Temporary sales	P	P	P	P	P	LEC 105.12.110(b) (13)
Water-oriented accessory structures	P	P	P	P	P	LEC 105.12.1230
Other structures typically incidental and clearly subordinate to permitted uses	P	P	P	P	P	
Commercial wedding ceremony venue	I	I	I	-	-	LEC 105.04.220(d)
Open space preservation development						
OP development	-	C	C	-	-	Ch. 105.12, Art. XVII
Notes to rural districts Table 9-1:						
a. One dwelling unit per 40 acres applies to all non-farm dwellings. In addition to non-farm dwellings (one per 40 acres), each farm is allowed one farm dwelling per farm.						
b. Nominal 40 acres: A 40-acre parcel not reduced by more than ten percent due to road rights-of-way and survey variations.						
c. Nominal ten acres: A ten-acre parcel not reduced by more than ten percent and/or a ten-acre parcel located on a corner or abutting a street on two sides not reduced by more than 15 percent due to road rights-of-way and survey variations.						
d. The minimum lot size for lots served by public sanitary sewer shall be 24,000 square feet per residential unit.						
e. A minimum of 1.25 acres of land above the floodplain or free of any drainage easements is required.						

f. Lots must be configured to contain a circle with a diameter of 250 feet minimum; the ratio of lot length to width shall be a maximum of 3:1. Flag lots are prohibited.
g. Corner properties: The side facade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.
h. Setback standards do not apply to solar farms. LEC 105.12.1440 should be referenced for these specific standards.

(Code 2007, § 154.401; Ord. No. 2012-073, 3-19-2013; Ord. No. 08-107, 5-6-2014; Ord. No. 08-136, 6-14-2016; Ord. No. 08-199, 2-7-2018; Ord. No. 08-197, § 1, 2-7-2018; Ord. No. 08-198, § 4, 2-7-2018; Ord. No. 08-243, § 1, 2021)

105.12.630 Lot Dimensions And Building Bulk Requirements

Lot area and setback requirements shall be as specified in Table 9-2, Lot Dimension and Setback Requirements.

Table 9-2: Lot Dimension and Setback Requirements, Rural Districts

	<i>RT</i>	<i>A</i>	<i>RR</i>	<i>RS</i>	<i>RE</i>
Minimum Lot Area (acres)					
Single-family detached dwelling	20	40 ^{a,b}	10 ^c	1.5 ^d	2.5 ^{e,f}
Minimum Lot Width (feet)					
Single-family detached dwelling	30 0	300	30 0	125	NA ^f
Maximum principal structure height (feet) ⁱ	35	35	35	35	35
Maximum impervious coverage	-	-	-	25 percent	15 percent
Minimum Principal Building Setbacks (feet) ^{h,i}					
Front yard	30	200	30	30	100
Interior side yard	10	200	10	10	50
Corner side yard ^g	25	200	25	25	80
Rear yard	40	200	40	40	100
Minimum Accessory Building Setbacks (feet) ^{h,i}					
Front yard	30	200	30	30	100

Interior side yard	10	200	10	10	15
Corner side yard	25	200	25	25	30
Rear yard	40	200	40	10	15
Minimum Agricultural Related Setbacks (Animal buildings, feedlots or manure storage sites)					
Any property line	20 0	200	20 0	-	-
Any existing well or residential structure	50	50	50	-	-
Any body of seasonal or year-round surface water	20 0	200	20 0	-	-
Notes to rural districts Table 9-2:					
a. One dwelling unit per 40 acres applies to all non-farm dwellings. In addition to non-farm dwellings (one per 40 acres), each farm is allowed one farm dwelling per farm.					
b. Nominal 40 acres: a 40-acre parcel not reduced by more than ten percent due to road rights-of-way and survey variations.					
c. Nominal ten acres: a ten-acre parcel not reduced by more than ten percent and/or a ten-acre parcel located on a corner or abutting a street on two sides not reduced by more than 15 percent due to road rights-of-way and survey variations.					
d. The minimum lot size for lots served by public sanitary sewer shall be 24,000 square feet per residential unit.					
e. A minimum of 1.25 acres of land above the floodplain or free of any drainage easements is required.					
f. Lots must be configured to contain a circle with a diameter of 250 feet minimum; the ratio of lot length to width shall be a maximum of 3:1. Flag lots are prohibited.					
g. Corner properties: The side facade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.					
h. Setback standards do not apply to solar farms. LEC 105.12.1440 should be referenced for these specific standards.					
i. Ground-mounted wind generators may exceed the allowable height restriction designated in all rural districts and are subject to different setback requirements as identified in LEC 105.12.560.					

(Code 2007, § 154.402; Ord. No. 2012-073, 3-19-2013; Ord. No. No. 08-198, 2-7-2018; Ord. No. 08-199, 2-7-2018)

105.12.640 Dimensional Requirements And Preservation Of Open Space

Lot configuration, RR district. All lots must be rectangular in shape and any two adjacent sites must have an aspect ratio not exceeding 4:1.

(Code 2007, § 154.403; Ord. No. 2012-073, 3-19-2013)

105.12.650 Site Design And Development Standards

Development of land within the rural districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in LEC 105.12, arts. VII, VIII and IX. The following standards apply to specific uses, and are organized by district:

- (a) *Single-family detached dwelling, all rural districts.* All single-family dwellings shall be at least 24 feet in width, at least 960 square feet in area, and be placed on a permanent foundation.
- (b) *Septic drainfield regulation, A, RR, and RS districts.* All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system (primary and secondary location) as approved by the county can be installed in accordance with Washington County Subsurface Sewage Treatment System Regulations.
- (c) *Septic drainfield regulation, RE district.* All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system (primary and secondary location) as approved by the county can be installed in accordance with Washington County Subsurface Sewage Treatment System Regulations.
- (d) *Secondary dwelling, A district.* One non-farm dwelling per each 40 acres, or part of a dwelling on a prorated basis, not already containing a farm or non-farm dwelling, is permitted provided:
 - (1) The dwelling unit is located on a separate parcel of record in the office of the county recorder and/or county auditor, which shall be at least 1½ acres in size;
 - (2) The parcel on which the dwelling unit is located must have at least 125 feet of frontage along a public street, be rectangular in shape and no dimension to be greater than three times the other; and
 - (3) The dwelling is separated by at least 300 feet from the nearest farm building.
- (e) *Parking standards, A, RR and RS districts.* Three spaces of off-street parking required per dwelling unit.
- (f) *Parking standards, RE district.*
 - (1) Two enclosed spaces minimum (200 square feet minimum per space).

- (2) Two exterior spaces within minimum setback of 50 feet from any property line.
- (g) *Non-agricultural low impact use, A, RT districts.* The city recognizes that allowing non-agricultural low impact uses, strictly controlled and regulated by interim use permit, might allow a farmer or large property owner an economical use of his property that is zoned agricultural. The following standards may apply to these types of uses:
- (1) All of the property owner's real estate that is contiguous to the non-agricultural low impact use must be zoned agricultural and remain so zoned while the conditional use permit is in effect.
 - (2) The area where the non-agricultural low impact use is located shall be legally defined and approved by the city and is hereafter known as the "non-ag area." The non-ag area shall not exceed four percent of the property owner's contiguous agricultural zone gross lot area. The building footprints and asphalt and concrete surfaces within the non-ag area shall not exceed 1.5 percent of the property owner's contiguous agricultural zone gross lot area. Landscaping, berms, ponds, gravel driveways, and other improvements that would otherwise be permitted in the agricultural zone may be located outside of the non-ag area.
 - (3) Non-agricultural low impact uses shall only be allowed on a parcel of a nominal 40 acres or larger.
 - (4) Non-agricultural low impact uses shall not generate more than three trips per day per acre of contiguous agriculturally zoned area, with the exception of land with sole access to Hudson Boulevard that shall not generate more than six trips per day per acre.
 - (5) Any uses under this section involving the outside storage of vehicles, equipment, or goods shall be located a minimum of 200 feet from any public roadway or adjacent landowner's boundary, except that the setback from the I-94 frontage road shall be not less than 50 feet. In addition, any such outside storage shall be screened from view from adjacent property and the public roadway by berms and landscaping. A plan for such screening shall be submitted with the application for the interim use permit which shall clearly demonstrate by view cross-sections that said screening will be effective immediately, and in all seasons. Degradation of such screening by loss of landscape materials, outdoor storage of items that exceed the screened height or for any other reason shall be grounds for rescinding the outdoor storage portion of the interim use permit.
 - (6) Non-agricultural low impact uses may not generate more than 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based upon

design capacity of facilities, whichever is more restrictive.

- (7) The property owner shall maintain the remaining land or farm outside of the IUP area in accordance with the permitted uses of the agricultural zoning district and the required practices of the soil and water conservation district.
 - (8) Rate and volume of stormwater runoff must meet the requirements of the city's stormwater ordinance.
 - (9) In the event that the property owner, or future property owner, initiates a comprehensive plan amendment and rezoning of any or all of the contiguous real estate from agriculture to a more intensive use, the interim use permit shall terminate and all nonconforming structures shall be removed from the site within one year from the date of the city council's adoption of the comprehensive plan amendment and rezoning, unless the city agrees otherwise. This section shall not apply if the city initiates rezoning or if property owner is forced to transfer title to any part of the contiguous real estate due to eminent domain.
 - (10) All conditional use permits granted to a non-agricultural low impact shall be reviewed on an annual basis, and may be rescinded, after a two-week notice and a public hearing, if the council finds that the public health, safety, or welfare is jeopardized.
 - (11) The standards for buildings or structures, as listed in the minimum district requirements of the agricultural zone, shall not apply to structures built prior to the effective date of the ordinance from which this chapter is derived.
- (h) *Unserviced lots, RT, A, RR districts.* All lots that are subdivided without city sewer and public water service shall meet the following standards:
- (1) Lots, houses and other structures, driveways and any new streets shall be located in compliance with the comprehensive plan and any more detailed area plans for future roads, public water services, and drainage.
 - (2) The planning commission may require a sketch plan showing how the entire tract could be divided when city services become available. Lots and buildings shall be sited and streets shall be laid out to facilitate future subdivision.
- (i) *Commercial kennel, commercial stable, or accessory kennel or stable, RT, A, RR districts.* The facility shall occupy a site at least ten acres in size. Outdoor exercise areas shall be located at least 100 feet from adjacent properties; landscaping or other screening may be required.
- (j) *Agricultural services and support, RT, A districts.*

- (1) A facility established after the effective date of the ordinance from which this article is derived shall have direct access to a collector or higher classification street.
- (2) An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the neighborhood.
- (3) All processing of animal or dairy products shall take place within an enclosed building.

(Code 2007, § 154.404; Ord. No. 2012-073, 3-19-2013; Ord. No. 08-152, 10-1-2016; Ord. No. 08-235, § 2, 3-4-2020)

105.12.660 Accessory Uses And Structures

Accessory uses are listed in the rural district use table as permitted or conditional accessory uses. Accessory uses and structures in the rural districts shall comply with the following standards and all other applicable regulations of this article:

- (a) *Phasing*. No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- (b) *Incidental to principal use*. The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- (c) *Subordinate to principal use*. The accessory use or structure shall be subordinate in area, extent, and purpose to the principal use or structure served.
- (d) *Function*. The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served.
- (e) *Location*. The accessory use or structure shall be located on the same zoning lot as the principal use or structure.
- (f) *Exemption*. Fish houses, as defined in this Code and located in the RS Rural Single-Family District, are exempt from this requirement, provided the following criteria are met: must be located on a lot one-half acre in size or more with direct access to a water body; is 120 square feet or less; and complies with shoreland regulations and RS Rural Single-Family District setback requirements. One fish house per lot may exist without a principal structure. The structure must maintain a current fish house license with the state department of natural resources regardless if it is left on a water body overnight. If a current state department of natural resources fish house license is not obtained for the structure, the structure must be removed from the property within 60 days.

(Code 2007, § 154.405; Ord. No. 2012-073, 3-19-2013; Ord. No. 08-138, 6-21-2016; Ord. No. 08-235, § 2, 3-4-2020)

105.12.670 Accessory Structures, Rural Districts

- (a) *Size and number.* The maximum number and size of accessory buildings permitted in rural zoning districts are outlined in Table 9-3:

Table 9-3: Accessory Buildings, Rural Zoning Districts

<i>Lot Size</i>	<i>Maximum Structure Size^a (square feet)</i>	<i>No. of Permitted Buildings</i>
Under 1 acre	1,200 ^b	1
1--2 acres	1,500	1
2--5 acres	1,750	1
5--10 acres	2,000	2
10--15 acres	2,500	2 ^b
15--20 acres	3,000	2 ^b
20--40 acres	4,000	2 ^b
40+ acres	Unregulated ^c	Unregulated ^c
Notes to Table 9-3:		
a. Maximum structure size accounts for the total maximum area allowed for all permitted accessory structures combined.		
b. One agricultural building, as defined in LEC 105.12.440, is allowed in addition to the permitted number and size of accessory structures.		
c. Agricultural buildings, as defined in LEC 105.12.440, are allowed in addition to up to two permitted accessory structures which total 4,000 square feet.		

- (b) *Structure height, rural districts.* No accessory building shall exceed the height of the principal structure, with the exception of agricultural buildings, as defined in LEC 105.12.440. Building projections or features on accessory structures that are not agricultural buildings as defined in LEC 105.12.440, such as chimneys, cupolas, and similar decorations are permitted in rural districts.
- (c) *Structure location, rural districts.* No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot.
- (d) *Exterior design and color.* The exterior building materials, design and color of all

accessory buildings or structures shall be similar to or compatible with the principal building, with the exception of the following accessory buildings or structures:

- (1) Detached domesticated farm animal buildings.
- (2) Agricultural buildings.
- (3) Pole buildings, as defined and regulated in LEC 105.12.440.
- (4) Gazebos.
- (5) Swimming pools.
- (6) Other structures in which the required design is integral to the intended use, such as a greenhouse.

(e) *Attached garages, size.* Attached garages must not exceed the footprint size of the principal building.

(Code 2007, § 154.406; Ord. No. 08-104, 3-18-2014; Ord. No. 08-138, 6-21-2016; Ord. No. 08-210, § 2, 5-15-2018; Ord. No. 08-227, § 1, 8-7-2019; Ord. No. 08-230, § 1, 11-5-2019)

105.12.680 Accessory Uses

(a) *Exterior storage in residential districts.* All materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:

- (1) Laundry drying.
- (2) Construction and landscaping materials and equipment currently being used on the premises. Materials kept on the premises for a period exceeding six months shall be screened or stored out of view of the primary street on which the house fronts.
- (3) Agricultural equipment and materials, if they are used or intended for use on the premises.
- (4) Off-street parking and storage of vehicles and accessory equipment, as regulated in LEC 105.12, art. VII.
- (5) Storage of firewood shall be kept at least ten feet from any habitable structure and screened from view from adjacent properties.
- (6) Outdoor parking.

(b) *Temporary sales.* Temporary sales, also known as yard or garage sales, are permitted in all residential districts, limited to two per calendar year per

residence, not to exceed four days in length.

(Code 2007, § 154.407; Ord. No. 2012-073, 3-19-2013)

105.12.690 Accessory Uses And Structures Not Listed

Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in LEC 105.12, art. IX. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment.

(Code 2007, § 154.408; Ord. No. 2012-073, 3-19-2013; Ord. No. 08-152, 10-1-2016)

ARTICLE XII URBAN RESIDENTIAL DISTRICTS

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105.12.700 Purpose And District Descriptions

The urban residential districts are established to provide areas for residential development that are served by public sewer and water services in accordance with the city's comprehensive plan. The objectives of these districts are to preserve and enhance the quality of living in residential neighborhoods, to regulate structures and uses which may affect the character or desirability of residential areas, to encourage a variety of dwelling types and locations and a range of population densities consistent with the city's comprehensive plan, and to ensure adequate light, air, privacy and open space. The residential districts and their purposes are as follows:

- (a) *GCC Golf Course Community District.* The GCC district is intended to permit urban residential developments in conjunction with a golf course and its accessory uses. Development in this district will be enhanced by coordinated site planning; open space and environmental resources; and provision of a safe and efficient system for pedestrian and vehicle traffic. The GCC district is intended to provide areas for densities lower than other Urban Residential Districts, ranging from 1.4 to 1.65 units per acre, with adequate open space buffers to provide a transition between denser, sewered development and rural areas. Residential development within the GCC district will consist of an environment of predominantly single-family dwellings with lots slightly larger on average than those in most urban residential districts.
- (b) *LDR Urban Low Density Residential District.* The LDR district provides an

environment of predominantly single-family dwellings on moderately sized lots, and is designed to be the most restrictive of the urban residential districts. The LDR district is intended to provide areas for lower density residential development within the city's planned sewer development areas, and may be used to provide a transition between rural development areas and the city's urban development and districts. Densities shall range from two to four units per acre; however, the overall density for a specific development area must be consistent with the net densities specified in the comprehensive plan. The lot size and other district standards allow for the creation of smaller lots with the expectation that common open space will be provided within developments that exceed the base densities (at low end of the land use density range) within the comprehensive plan.

- (c) *MDR Urban Medium Density Residential District.* The MDR district is established to provide for a diversity of housing types in those areas where such development is consistent with the medium density residential designation of the comprehensive plan and compatible with the development pattern of the surrounding area. Clustering of buildings to permit more orderly development and to preserve open space within new developments is encouraged. Development within the district shall occur at densities in the range of four to seven dwelling units per acre, with two-family dwellings and townhouses permitted. The city will determine the allowed density for a piece of property at the time of the development application, and this determination will be based upon the site-specific characteristics of the property and the requested development. Factors to be considered in increasing or decreasing the allowed density include the existing environmental conditions such as wetlands, floodplains, steep slopes, significant trees; the specific site plan; the amount of open space preserved, and the type of housing units proposed, including whether greater density is desirable because the development contains housing that is consistent with the city's housing goals. The burden of establishing the appropriateness of the high end of the density range will be on the applicant.
- (d) *HDR Urban High Density Residential District.* The HDR district is established to provide for an environment of moderate to high-density attached and multifamily housing, designed to present an attractive appearance to neighboring streets and adjacent uses, to include sufficient private and semi-private outdoor space, and to be well integrated into their surroundings. Small office and service businesses of limited size and extent may be allowed as conditional uses. The HDR district is appropriate as a transition between commercial or industrial districts and surrounding neighborhoods, and in already developed higher-density areas. Development within the district may occur at densities in excess of seven dwelling units per acre, provided the overall densities for within a development area are consistent with the net densities specified in the comprehensive plan and that a density analysis is used consistent with the purpose statement for the MDR district.

(Code 2007, § 154.450; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-167, 2-7-2017)

105.12.710 Permitted And Conditional Uses

Table 10-1 lists all permitted and conditional uses allowed in the urban residential districts. "P" indicates a permitted use, "C" a conditional use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under "Standards" indicate the location within this chapter of specific development standards that apply to the listed use.

Combinations of uses. Principal and accessory uses may be combined on a single parcel. A principal and secondary dwelling unit may be combined according to the standards of LEC 105.12.750(c). Single-family attached or multifamily complexes designed for rental or condominium occupancy, typically include multiple units and buildings on a single parcel.

Table 10-1: Permitted and Conditional Uses, Residential Districts					
<i>Residential Uses</i>	<i>G</i> <i>C</i> <i>C</i>	<i>L</i> <i>D</i> <i>R</i>	<i>M</i> <i>D</i> <i>R</i>	<i>H</i> <i>D</i> <i>R</i>	<i>Standard</i>
Household Living					
Single-family detached dwelling	P*	P	P	P	154.174 (B), (E), *(O)
Two-family dwelling	-	-	P	P	154.174 (F)
Single-family attached dwelling	-	-	P*	P* *	154.154 *(G), ** (J)
Multifamily dwelling (rental or condominium)	-	-	C*	P* *	LEC 105.12.740 * (h), ** (k)
Secondary dwelling	C	C	C	C	LEC 105.12.740(c)
Live-work unit	-	-	-	C	LEC 105.12.740(l)
Manufactured home park	-	-	C	-	LEC 105.12.170-- LEC 105.12.340
Group Living					
Group home	-	P	P	P	LEC 105.12.500(c)
Group residential facility	-	-	C	C	LEC 105.12.500(b)
Halfway house	-	-	-	C	LEC 105.12.500(b)
Congregate housing	-	-	C	C	LEC 105.12.500(c)
Semi-transient accommodations	-	-	C	C	LEC 105.12.500(d)

Public and Civic Uses					
Community services	-	-	-	C	
Day care center	-	-	C	C	LEC 105.12.110(b)(4)
Schools, public and private	-	C	C	C	LEC 105.12.510(a)
Services					
Offices		-	-	C	LEC 105.12.740(m)
Funeral home		-	-	C	LEC 105.12.740(i)
Personal services		-	-	C	LEC 105.12.740(i)
Nursing and personal care		-	-	C	LEC 105.12.510(c)
Sales of Merchandise					
Neighborhood convenience store		-	-	C	LEC 105.12.740(k)
Wayside stand		P	P	P	LEC 105.12.740(d)
Outdoor Recreation					
Golf course	P	C	-	-	LEC 105.12.550(a)
Outdoor recreation facility	C	-	-	-	LEC 105.12.550(c)
Indoor recreation facility	C	-	-	-	LEC 105.12.550, LEC LEC 105.12.740(n)
Parks and open areas	P	P	P	P	
Transportation and Communications					
Broadcasting or communication facility	-	C	C	C	
Accessory Uses					
Home occupation	P	P	P	P	LEC 105.12.570(d)
Bed and breakfast	P	P	P	P	LEC 105.12.570(a)
Domestic pets	P	P	P	P	
Family day care	P	P	P	P	LEC 105.12.110(m)(2)
Group family day care	-	C	C	C	LEC 105.12.110(m)(2)
Temporary sales	P	P	P	P	LEC 105.12.760(h)
Parking facility	-	-	-	C	

Solar equipment	P	P	P	P	LEC 105.12.760(h)
Swimming pools, hot tubs, and the like	P	P	P	P	LEC 105.08.160(c)
Water-oriented accessory structures	P	P	P	P	LEC 105.12.1230
Restaurant	C	-	-	-	LEC 105.12.740(p)
Drinking and entertaining	C	-	-	-	LEC 105.12.740(p)
Semi-transient accommodations	C	-	-	-	LEC 105.12.740(r)
Other structures typically incidental and clearly subordinate to permitted uses	P	P	P	P	

(Code 2007, § 154.451; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-157, 2-7-2017; Ord. No. 08-197, § 2, 2-7-2018; Ord. No. 08-243, § 2, 2021)

105.12.720 Lot Dimensions And Building Bulk Requirements

Lot area and setback requirements shall be as specified in Table 10-2, Lot Dimension and Setback Requirements.

Table 10-2: Lot Dimension and Setback Requirements, Residential Districts

	<i>LDR</i>	<i>MDR</i>	<i>HDR</i>
Minimum Lot Area (square feet)			
Single-family detached dwelling	8,000	7,000	5,000
Two-family dwelling (per unit) ^a	5,000	4,000	3,000
Single-family attached (per unit) ^b	-	See note i	See note i
Multifamily dwelling (per unit)	-	See note i	See note i
Secondary dwelling		See LEC 105.12.750(c)	See LEC 105.12.750(c)
Live-work unit	-	-	3,600
Congregate housing	-	See LEC 105.12.500(c)	See LEC 105.12.500(c)
Manufactured home park	-	See LEC 105.12.170-- LEC 105.12.340	See LEC 105.12.170-- LEC 105.12.340
Minimum Lot Width (feet)			
Single-family detached	60	50	50

dwelling			
Two-family dwelling (per unit) ^a	35	30	20
Single-family attached (per unit) ^b	-	25	20
Multifamily dwelling (per building)	-	75	60
Live-work unit	-	-	25
Maximum Height (feet)	35	35	50
Maximum Impervious Coverage	40 percent	50 percent	75 percent
Minimum Building Setbacks (feet)			
Front yard	25 ^c	25 ^c	20 ^c
Interior side yard ^e			
Principal Buildings ^{f, g}	10	10	10 ^d
Minimum Building Setbacks (feet)			
Interior side yard			
Attached garage or accessory structures ^{f, g}	5	5	10 ^d
Corner side yard ^{g, h}	15	15	15
Rear yard	20	20	20
Notes to Urban Residential Districts Table:			
a. Common open space areas may be used in the determining whether or not the minimum lot areas within a development are met, when provided as part of an overall development plan.			
b. Two-family units may be side-by-side with a party wall between them (twin) or located on separate floors in a building on a single lot (duplex). The per-unit measurements in this table apply to twin units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a duplex containing two vertically-separated units on a single lot.			
c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e., one unit per 2,500 square feet. This standard is also used for multifamily dwellings.			
d. Single-family dwellings (both attached and detached) and two-family dwellings may use the side yard setbacks within MDR zoning districts.			

e. In a block where the majority of the block face has been developed with the same or similar setbacks, the front setback for the remaining lots on that block face shall fall within the range established by the existing setbacks.

f. In situations where a garage or accessory building is set back less than seven feet from a side property line, the maximum permitted encroachment for anything attached to said building (including eaves, overhangs, steps, chimneys, and other appurtenances as described in LEC 105.12.200) will be two feet.

g. Side yards setbacks shall apply to the ends of attached or two-family dwellings.

h. Corner properties: The side facade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.

i. The total number of housing units or residential density in any development shall not exceed the maximum density allowed by the land use classification as designated in the city's comprehensive plan.

(Code 2007, § 154.452; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-071, 3-5-2013; Ord. No. 08-167, 2-7-2017; Ord. No. 08-228, § 1, 7-2-2019)

105.12.730 Dimensional Requirements And Preservation Of Open Space

(a) *Averaging of lot area.* When lots are clustered within a development to provide common open space, the open space may be used to calculate an average density per lot to determine compliance with the individual lot area requirements.

(b) *Lot dimension reductions.* Other reductions in dimensional standards may be considered as part of a planned unit development if these reductions provide for common open space within a development.

(c) *Lots adjacent to public greenway corridors.* On any lot that abuts a public greenway, as depicted in the comprehensive plan, the minimum setback for all structures, including accessory buildings, shall be the required rear yard setback for the district in which said structure is located.

(Code 2007, § 154.453; Ord. No. 2012-062, 9-18-2012)

105.12.740 Site Design And Development Standards

Development of land within the urban residential districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in LEC 105.12, arts. VII, VIII, and IX. The following standards apply to specific uses, and are organized by district:

(a) *Planned unit developments, all urban residential districts.*

- (1) A planned unit development may be submitted for consideration within any residential district, subject to the requirements and standards established in LEC 105.12.1120.
 - (2) A residential development that exceeds 15 units per acre in an HDR Zoning District may be allowed as a planned unit development in accordance with the density bonus provisions of LEC 105.12.1130.
- (b) *Single-family detached dwellings, all urban residential districts.* All single-family dwellings shall be at least 24 feet in width, at least 960 square feet in area, and be placed on a permanent foundation.
- (c) *Secondary dwelling, all urban residential districts.* The purpose of a secondary dwelling is to provide life-cycle housing opportunities for family members or small households of one or two people, while providing more efficient use of large single-family dwellings or large lots.
- (1) A secondary dwelling unit may be located within a principal structure used as a single-family detached dwelling, above a detached garage, or within a separate detached structure.
 - (2) There shall be no more than one secondary dwelling unit on the zoning lot.
 - (3) At least one dwelling unit on the zoning lot shall be owner-occupied.
 - (4) The minimum lot area shall be 2,500 square feet greater than the minimum lot area required for a single-family detached dwelling in the zoning district.
 - (5) If the secondary unit is included in the principal building, the appearance of the building shall remain that of a single-family dwelling. Any new or additional entrances must face the side or rear of the building.
 - (6) Whether the secondary unit is an addition to an existing structure or a new detached structure, roof pitch, windows, eaves and other architectural features must be the same or visually compatible with those of the principal building. Exterior finish materials and trim must be the same or closely match in type, size and location the materials and trim of the original building.
 - (7) A secondary unit within the principal structure shall not contain more than 30 percent of the principal building's total floor area or 800 square feet, whichever is less. A detached secondary unit shall not exceed 1,000 square feet in gross floor area.
 - (8) Impervious limits for the lot within the zoning district in question shall not be exceeded.

(d) *Wayside stand, all urban residential districts.*

- (1) No more than one stand per lot shall be permitted.
- (2) Adequate off-street parking shall be provided.

(e) *Single-family detached dwelling, all urban residential districts.*

- (1) No parking shall be located in the front yard or between the front facade and the street except on a permitted driveway.
- (2) The primary entrance shall be located on the facade fronting a public street.

(f) *Two-family dwelling, MDR and HDR districts.*

- (1) No parking shall be located in the front yard or between the front facade and the street except on a permitted driveway.
- (2) Access to the second dwelling unit shall be either through a common hallway with one front entrance, or by means of a separate entrance.
- (3) New housing types should be introduced in limited quantities to increase diversity and housing choice, not to replace whole blocks of existing housing. Therefore, no more than one-fourth of the lineal frontage of a developed block may be redeveloped as two-family units, and no further two-family or higher density development is permitted once this threshold is reached. Lineal frontage shall be measured around the entire perimeter of the block.
- (4) Two-family dwellings shall be designed to reflect the general scale and character of surrounding buildings on surrounding blocks, including front yard depth, building width height and roof pitch, primary materials, facade detailing and size and placement of window and door openings.

(g) *Single-family attached dwelling (townhouse), MDR district.*

- (1) A maximum of eight units shall be permitted within a single building. Buildings with more than eight units may be allowed as a conditional use.
- (2)
 - a. Townhouses shall be located on lots in such a way that each individual unit has a minimum of 15 feet of street frontage. No parking shall be located in the front yard or between the front facade and the street.
 - b. Townhouses that do not meet the minimum requirements for frontage along a street or that have frontage along a private street may be allowed as a conditional use.

- (3) The primary entrance shall be located on the facade fronting a public street unless the townhouses are approved as a conditional use under subsection (g)(2)a of this section; an additional entrance may be provided on the rear or side facade.
- (4) New housing types should be introduced in limited quantities to increase diversity and housing choice, not to replace whole blocks of existing housing. Therefore, no more than one-fourth of the lineal frontage of a developed block (measured around the entire block perimeter) may be converted to townhouse units, and no further townhouse, two-family or higher-density development is permitted once this threshold is reached.
- (5) Townhouse units shall be designed to reflect the general scale and character of existing buildings on surrounding blocks, including front yard depth, height and roof pitch, primary materials, facade detailing and size and placement of window and door openings.
- (6) Common open space for use by all residents or private open space adjacent to each unit shall be provided. Such open space shall comprise a minimum of 500 square feet per unit.

(h) *Multifamily building, MDR district.*

- (1) A maximum of eight units shall be permitted within a single building. Buildings with more than eight units may be allowed as a conditional use.
- (2) The multifamily building shall be designed to reflect the general scale and character of buildings on surrounding blocks, including front yard depth, roof pitch, primary materials, facade detailing and size and placement of window and door openings.
- (3) No parking shall be located in the front yard or between the front facade and the street.
- (4) New housing types should be introduced in limited quantities to increase diversity and housing choice, not to replace whole blocks of existing housing. Therefore, no more than one-fourth of the linear frontage of a block (measured around the entire block perimeter) may be developed as multifamily units, and no further multifamily, two-family or townhouse development is permitted on the block once this threshold is reached.
- (5) Common open space for use by all residents or private open space adjacent to each unit (as a courtyard or balcony) shall be provided. Such open space shall comprise a minimum of 300 square feet per unit.

(i) *Funeral home, HDR district.*

- (1) A facility developed after the effective date of the ordinance from which this chapter is derived shall have access to an arterial or collector street of

sufficient capacity to accommodate the traffic that the use will generate. A minimum of two access points shall be provided.

- (2) Additions or new construction shall be designed to reflect the general scale and character of the existing building and surrounding neighborhood, including front yard depth, roof pitch, primary materials, facade detailing and size and placement of window and door openings.

(j) *Single-family attached dwelling, HDR district.*

- (1) A maximum of ten units shall be permitted within a single building. Buildings with more than ten units may be allowed as a conditional use.
- (2)
 - a. Townhouse dwellings shall be located on lots in such a way that each individual unit has a minimum of 15 feet of street frontage. No parking shall be located in the front yard or between the front facade and the street.
 - b. Townhouses that do not meet the minimum requirements for frontage along a street or that have frontage along a private street may be allowed as a conditional use.
- (3) The primary entrance shall be located on the facade fronting a public street unless the townhouses are approved as a conditional use under subsection (j)(2)b of this section; an additional entrance may be provided on the rear or side facade.
- (4) Common open space for use by all residents or private open space adjacent to each unit shall be provided. Such open space shall comprise a minimum of 300 square feet per unit.

(k) *Multifamily building, HDR district.*

- (1) No parking shall be located in the front yard or between the front facade and the street.
- (2) Common open space for use by all residents or private open space adjacent to each unit (as a courtyard or balcony) shall be provided. Such open space shall comprise a minimum of 200 square feet per unit.

(l) *Live-work unit, HDR district.* The purpose of a live-work unit is to provide a transitional use type between a home occupation and a larger commercial enterprise, and to provide neighborhood-oriented commercial services, while maintaining a generally residential character in which the work space is subordinate to the residential use.

- (1) The work space component shall be located on the first floor or basement of the building.

- (2) The dwelling unit component shall maintain a separate entrance located on the front or side facade and accessible from the primary abutting public street.
 - (3) The work space component of the unit shall not exceed 30 percent of the total gross floor area of the unit.
 - (4) A total of two off-street parking spaces shall be provided for a live-work unit, located to the rear of the unit or underground/enclosed.
 - (5) The size and nature of the work space shall be limited so that the building type may be governed by residential building codes. An increase in size or intensity beyond the specified limit on floor area would require the building to be classified as a mixed-use building.
 - (6) The business component of the building may include offices, small service establishments, home crafts which are typically considered accessory to a dwelling unit, or limited retailing (by appointment only) associated with fine arts, crafts, or personal services. It may not include a wholesale business, a manufacturing business, a commercial food service requiring a license, a limousine business or auto service or repair for any vehicles other than those registered to residents of the property.
 - (7) The business of the live-work unit must be conducted by a person who resides on the same lot. The business shall not employ more than two workers on-site at any one time who live outside of the live-work unit.
- (m) *Offices or personal services, HDR district.* The establishment shall not exceed 3,000 square feet in size, and may be located within a multifamily building or a freestanding building.
- (1) Additions or new construction shall be designed to reflect the general scale and character of surrounding buildings, including front yard depth, roof pitch, primary materials, facade detailing and size and placement of window and door openings.
 - (2) No parking shall be located in the front yard or between the front facade and the street.
 - (3) No building shall be constructed and no residential building shall be wholly or partially converted to such a use within a distance of 300 feet from any other retail or service business on the same street within the HDR district.
- (n) *Neighborhood convenience store, HDR district.*
- (1) The establishment shall not exceed 3,000 square feet in size, and may be located within a multifamily building or a freestanding building.

- (2) Additions or new construction shall be designed to reflect the general scale and character of existing buildings on surrounding blocks, including front yard depth, roof pitch, primary materials, facade detailing and size and placement of window and door openings.
- (3) No parking shall be located in the front yard or between the front facade and the street.
- (4) The use shall occupy a corner property. Any freestanding building developed on such a property shall have a minimum setback of ten feet from each right-of-way line.
- (5) No building shall be constructed and no residential building shall be wholly or partially converted to such a use within a distance of 500 feet from any other retail or service business on the same street within the HDR district.

(o) *Development, GCC district.*

- (1) *Open space required.* A minimum of 50 percent of the gross acreage being developed as golf course community must be designated as either a golf course or as open space.
- (2) *Buffers required.* All residential lots must be a minimum of 100 feet from external residential lots within the city on the periphery of the proposed golf course community. The resulting buffer area shall be part of the required 50 percent open space. Buffer widths may be reduced as determined by council in areas where existing mature vegetation and/or changes in topography occurring on the site proposed for development exist or are introduced to provide an effective year-round buffer.
- (3) *Connectivity.* Trails, walkways, or paths must be provided within the development and make planned connections to planned external trails, walkways or paths within the community. There must also be internal trail connectivity between proposed housing and the golf course or main area of open space being established within the golf course community.

(p) *Restaurant and drinking and entertaining, GCC district.* Restaurants and drinking and entertaining establishments within the golf course community must adhere to the following standards: Must meet applicable standards set forth by Lake Elmo Design Guidelines and Standards for commercial development.

(q) *Indoor athletic facility, GCC district.* Must be owned and operated by the same entity that owns and operates the golf course or homeowner's association and must not be a freestanding commercial operation.

(r) *Semi-transient accommodations, GCC district.*

- (1) Must be accessory to a golf course.

- (2) Must be owned and operated by either the owners of the golf course or homeowner's association and must not be a freestanding commercial operation.

(Code 2007, § 154.454; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-152, 10-1-2016; Ord. No. 08-167, 2-7-2017)

105.12.750 Residential District Design Standards

Review of design. For certain development activity as specified in the Lake Elmo Design Guidelines and Standards Manual, design review is required as part of the approval process for a permit or certificate under this section. All projects subject to design review shall be reviewed for conformance with the Lake Elmo Design Guidelines and Standards Manual and shall follow the review procedures specified in LEC 105.12.830(a).

(Code 2007, § 154.455; Ord. No. 08-095, 11-19-2013)

105.12.760 Accessory Uses And Structures

Accessory uses are listed in the urban residential district use table as permitted or conditional accessory uses. Accessory uses and structures in the urban residential districts shall comply with the following standards and all other applicable regulations of this subchapter.

- (a) *Phasing*. No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- (b) *Incidental to principal use*. The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- (c) *Subordinate to principal use*. The accessory use or structure shall be subordinate in area, extent, and purpose to the principal use or structure served.
- (d) *Function*. The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served.
- (e) *Location*. The accessory use or structure shall be located on the same zoning lot as the principal use or structure.
- (f) *Attached structures, urban residential districts*. An accessory structure shall be considered attached and an integral part of the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:

- (1) In all residential districts, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and construction of the main building. The exterior building materials, roof style, and colors shall be similar to or compatible with the main building or shall be commonly associated with residential construction. Exceptions: Gazebos; swimming pools, tennis and sport courts; and other structures in which the required design is integral to the intended use, such as a greenhouse;
 - (2) The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located;
 - (3) The structure shall not exceed the height of the principal building to which it is attached;
 - (4) Attached garages, urban residential districts.
 - a. Attached garages are encouraged to be side or rear loaded.
 - b. For single-family detached dwellings, the width of the visible garage door area when closed shall not exceed 60 percent of the principal building facade (including garage) fronting the primary street.
 - c. Attached garages shall not exceed 1,000 square feet in area at the ground floor level except by conditional use permit.
 - d. Garage doors or openings shall not exceed 14 feet in height.
- (g) *Detached structures, urban residential districts.* Detached accessory structures shall be permitted in residential districts in accordance with the following requirements:
- (1) Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.
 - (2) Detached garages shall not exceed 1,000 square feet at ground floor level and shall not exceed a height of 22 feet or the height of the principal structure. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.
 - (3) Pole barns, as defined herein, exceeding 120 square feet shall be prohibited.
 - (4) No more than 30 percent of the rear yard area may be covered by accessory structures.
 - (5) Garage doors or openings shall not exceed 14 feet in height.

(h) *Accessory uses.*

(1) *Exterior storage in residential districts.* All materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:

- a. Laundry drying;
- b. Construction and landscaping materials and equipment currently being used on the premises. Materials kept on the premises for a period exceeding six months shall be screened or stored out of view of the primary street on which the house fronts;
- c. Agricultural equipment and materials, if these are used or intended for use on the premises;
- d. Off-street parking and storage of vehicles and accessory equipment, as regulated in LEC 105.12.410;
- e. Storage of firewood shall be kept at least ten feet from any habitable structure and screened from view from adjacent properties; and
- f. Outdoor parking.

(2) *Temporary sales.* Temporary sales, also known as yard or garage sales, are permitted in all residential districts, limited to two per calendar year per residence, not to exceed four days in length.

(3) *Accessory uses and structures not listed.* Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in LEC 105.12, art. IX. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment.

(Code 2007, § 154.456; Ord. No. 2012-062, 9-18-2012; Ord. 08-104, 3-18-2014; Ord. No. 08-112, 6-3-2014; Ord. No. 08-152, 10-1-2016)

ARTICLE XIII VILLAGE MIXED-USE DISTRICT

[105.12.770 Purpose And District Description](#)

[105.12.780 Permitted And Conditional Uses](#)

[105.12.790 Lot Dimensions And Building Bulk Requirements](#)

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[105.12.820 Development Standards For Specific Uses](#)

[105.12.830 VMX District Design And Demolition Review](#)

105.12.840 Accessory Uses And Structures

105.12.770 Purpose And District Description

- (a) *V-LDR Village Low Density Residential*. The purpose of the V-LDR zoning district is to provide opportunity for lower density residential development within the Old Village and create a transition and connectivity between the heart of the Old Village and surrounding rural areas. Residential development within areas zoned V-LDR will occur at a density of 1.5 to 2.49 units per acre.
- (b) *VMX Village Mixed-Use District*. The purpose of the VMX district is to provide an area for compact, mixed-use development made mutually compatible through a combination of careful planning and urban design and coordinated public and private investment. This district is intended to continue the traditional mixed-use development that has occurred in the village area by allowing retail, service, office, civic and public uses as well as residential units. The mixture of land uses within the district is essential to establishing the level of vitality and intensity needed to support retail and service uses. Development within areas zoned VMX will occur at a density of six to ten units per acre. Senior congregate care facilities may exceed this density maximum with a range not to exceed a total of 16 units per acre, provided the facility can satisfy all zoning and applicable conditional use permit review criteria. The placement of building edges and treatment of building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian friendly environment envisioned for the VMX district. The standards in this chapter are intended to implement and effectuate the principles and relationships established in the village master plan, which will be carried out through specific standards related to site planning, signage, architecture, building materials, and landscaping. Renovation and infill of traditional storefront-type buildings is encouraged, and parking standards may be waived to recognize the availability of on-street and shared parking facilities.

(Code 2007, § 154.500; Ord. No. 08-091, 11-13-2013; Ord. No. 08-175, 5-16-2017)

105.12.780 Permitted And Conditional Uses

Table 11-1 lists all permitted and conditional uses allowed in the urban residential districts. "P" indicates a permitted use, "C" a conditional use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under "Standards" indicate the location within this section of specific development standards that apply to the listed use.

- (a) *Combinations of uses, village districts*. The following use types may be combined on a single parcel:
 - (1) Principal and accessory uses may be combined on a single parcel.

- (2) A principal and secondary dwelling unit may be combined according to the standards of LEC 105.12.740(c).

(b) *Combination of uses, VMX district.*

- (1) Single-family attached or multifamily complexes designed for rental or condominium occupancy, since these typically include multiple units and buildings on a single parcel.
- (2) Other permitted or conditional uses allowed within the district may be combined on a single parcel, provided that a unified and integrated site plan is approved. If one or both of the uses is/are conditional, the entire development must be approved as a conditional use.
- (3) A mixed-use building that combines permitted or conditionally permitted residential, service, retail and civic uses may be developed meeting the form standards of this subchapter. Office or studio uses on upper stories are encouraged.

Table 11-1: Permitted and Conditional Uses, Village Districts

	V- LD R	V M X	Standard
Residential Uses			
Household Living:			
Single-family detached dwelling	P	C*	LEC 105.12.830(a)(1), (2), *(4)
Two-family dwelling	-	C*	LEC 105.12.830(a)(1), *(4)
Single-family attached dwelling	-	C	LEC 105.12.830(a)(1), (5)
Multifamily dwelling	-	C	LEC 105.12.830(a)(1), (6)
Secondary dwelling	C	C	LEC 105.12.750(c) and LEC 105.12.830(a)(1), (3)
Live-work unit	-	C	LEC 105.12.830(b)(6)
Group Living:			
Group home	P	P	LEC 105.12.500(a)
Group residential facility	-	C	LEC 105.12.500(b)
Congregate housing	-	C	LEC 105.12.500(c)
Semi-transient accommodations	-	C	LEC 105.12.500(c)

Public and Civic Uses:			
Community services	-	P	LEC 105.12.110(b)
Day care center	-	P	LEC 105.12.110(b)
Public assembly	-	C	LEC 105.12.110(b)
Religious institutions	-	C	LEC 105.12.110(b)(2)
Schools, public and private	-	C	LEC 105.12.510(a)
Services:			
Business services	-	P	LEC 105.12.110(b)
Business center	-	P	LEC 105.12.110(b)
Offices	-	P	LEC 105.12.110(b)
Communications services	-	P	LEC 105.12.110(b)
Education services	-	P	LEC 105.12.510(a), LEC 105.12.110(b)
Financial institution	-	P	LEC 105.12.110(b)
Funeral home	-	C	LEC 105.12.110(b)
Lodging	-	C	154.302(d)
Medical facility	-	C	LEC 105.12.510(b)
Membership organization	-	C	
Nursing and personal care	-	C	LEC 105.12.510(c)
Personal services	-	P	
Repair and maintenance shop	-	C	LEC 105.12.830(b)(1)
Trade shop	-	C	LEC 105.12.830(b)(2)
Veterinary services	-	C	LEC 105.12.830(b)(3)
Food Services:			
Standard restaurant	-	P	
Restaurant with drive-through	-	C	LEC 105.12.520(a)
Drinking and entertainment	-	P	LEC 105.12.520(b)
Sales of Merchandise:			
Retail trade ¹	-	P	
Farmer's market	-	C	

Garden center	-	C	LEC 105.12.960(g)
Neighborhood convenience store	-	P	
Shopping center	-	C	
Wayside stand	P	P	LEC 105.12.750(d)
Automotive/Vehicular Uses:			
Automobile maintenance service	-	C	LEC 105.12.830(b)(5)
Automobile parts/supply	-	C	LEC 105.12.830(b)(5)
Gasoline station	-	C	LEC 105.12.530(b)
Parking facility	-	C	LEC 105.12.830(b)(7)
Sales and storage lots	-	C	LEC 105.12.530(c)
Outdoor Recreation:			
Outdoor recreation facility	-	C	LEC 105.12.550(c)
Parks and open areas	P	P	
Indoor Recreation/Entertainment:			
Indoor athletic facility	-	C	LEC 105.12.560
Indoor recreation	-	C	LEC 105.12.560
Transportation and Communications:			
Broadcasting or communications facility	-	C	
Mixed-Uses:			
Combination of principal uses on a single parcel	-	C/ P	LEC 105.12.530(b)
Combination of principal and accessory uses on a single parcel	P	P	LEC 105.12.530(a)
Accessory Uses:			
Home occupation	P	P	LEC 105.12.110(l)(5)
Bed and breakfast	P	P	LEC 105.04.220(a)
Family day care	P	P	LEC 105.12.110(l)(5)
Group family day care	-	C	
Temporary sales	P	P	LEC 105.12.870(g)
Parking facility	-	P	LEC 105.12.830(h)(7)
Solar equipment	P	P	LEC 105.04.220(c)

Swimming pools, hot tubs, etc.	P	P	LEC 105.08.160(c)
Other structures typically incidental and clearly subordinate to permitted uses	P	P	

¹Retail Trade in the VMX District includes all uses and activities defined as Retail Trade in LEC 105.12.110(b) (5) with the exception of building supplies sales and warehouse club sales.

(Code 2007, § 154.501; Ord. No. 08-091, 11-13-2013; Ord. No. 08-175, 5-16-2017; Ord. No. 08-197, § 4, 2-7-2018; Ord. No. 08-243, § 3, 2021; Ord. No. 08-249, § 1, 2021)

105.12.790 Lot Dimensions And Building Bulk Requirements

Lot area and setback requirements shall be as specified in Table 11-2, Lot Dimension and Setback Requirements.

Table 11-2: Lot Dimension and Setback Requirements, Villages Districts

	V- LDR	VMX
Minimum Lot Area (square feet): ^a		
Nonresidential use	-	None
Single-family detached dwelling	9,000	9,000
Two-family dwelling (per unit) ^b	-	3,000
Single-family attached (per unit) ^c	-	2,500
Multifamily dwelling (per unit)	-	1,800
Secondary dwelling	-	See LEC 105.12.740(c)
Live-work unit	-	3,000
Congregate housing	-	LEC 105.12.500(c)
Other structures	-	3,500
Maximum Lot Area (acres):		
Residential lots	N/A	N/A
Other	N/A	N/A

Minimum Lot Width (feet):		
Single-family detached dwelling	70	70
Two-family dwelling (per unit) ^b	-	30
Single-family attached (per unit) ^c	-	25
Multifamily dwelling (per building)	-	75
Live-work unit	-	25
Maximum height (feet/stories)	35	35/3 ^d
Maximum Impervious Coverage:		
Residential lots	35 percent	75 percent
Other	-	No Limit
Minimum Building Setbacks (feet):		
Front yard	25	Single-Family Detached, Two-Family, and Single-Family Attached: See LDR standards of LEC 105.12.730 Multifamily Dwellings: LEC 105.12.830(a)(6)a All Other Residential Uses: LEC 105.12.830(a)(7) Nonresidential Uses: LEC 105.12.830(b)(1)
Interior Side Yard:		
Principal building	10	10 ^e
Attached garage or accessory structure	5	5
Corner side yard	15	0 ^f
Rear yard	20	10 ^g
Notes to Village Districts Table:		
a. No development may exceed the residential density range as specified in the comprehensive plan for the corresponding land use category.		
b. Two-family units may be side-by-side with a party wall between them (twin) or located on separate floors in a building on a single lot (duplex). The per-unit measurements in this table apply to twin units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a duplex containing		

two vertically-separated units on a single lot.
c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e., one unit per 2,500 square feet. This standard is also used for multifamily dwellings.
d. Buildings up to 45 feet in height may be permitted as part of a PUD in the VMX district.
e. Side yard setbacks in the VMX district apply only along lot lines abutting residentially zoned parcels or those parcels with residential uses as the sole use.
f. Corner properties. The side yard facade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, and provided required setbacks are not otherwise stated herein, the setback shall be shown in the table.
g. Properties zoned V-LDR abutting Stillwater Boulevard North (CSAH 14), Lake Elmo Avenue North (CSAH 17) north of Stillwater Blvd (CSAH 14), and Manning Avenue North (CSAH 15) shall have a minimum structure setback of 50 feet.

(Code 2007, § 154.502; Ord. No. 08-091, 11-13-2013; Ord. No. 08-175, 5-16-2017; Ord. No. 08-228, § 2, 7-2-2019; Ord. No. 08-244, § 1, 2021)

105.12.800 Dimensional Requirements And Preservation Of Open Space

- (a) *Averaging of lot area.* When lots are clustered within a development to provide common open space, the open space may be used to calculate an average density per lot to determine compliance with the individual lot area requirements.
- (b) *Lot dimension reductions.* Other reductions in dimensional standards may be considered as part of a planned unit development if these reductions provide for common open space within a development.
- (c) *Village open space overlay district.* Development of areas within the village open space overlay district, as designated by the comprehensive plan, is not allowed. Residential lots shall not encroach on the areas designated as open space per this overlay district, unless berming or screening protected by a landscape easement is provided as an alternative approved by council.

(Code 2007, § 154.503; Ord. No. 08-091, 11-13-2013; Ord. No. 08-175, 5-16-2017)

105.12.810 General Site Design Considerations; Village Districts

Development of land within the village districts shall follow established standards for traffic circulation, landscape design, and other considerations as specified in LEC 105.12, arts V, VI and VII.

(a) *Circulation.*

- (1) New access points to County State Aid Highway 14 may be refused or restricted to right-in, right-out movement if alternatives exist. Internal connections shall be provided between parking areas on adjacent properties wherever feasible.
- (2) The number and width of curb cuts shall be minimized. To promote pedestrian circulation, existing continuous curb cuts shall be reduced to widths necessary for vehicular traffic, and unnecessary or abandoned curb cuts shall be removed as parcels are developed.

(b) *Fencing and screening.* Fencing and screening walls visible from the public right-of-way shall be constructed of materials compatible with the principle structure.

(c) *Lighting design.* Lighting shall be integrated into the exterior design of new or renovated structures to create a greater sense of activity, security, and interest to pedestrians, and shall comply with LEC 105.04.050 et seq.

(d) *Exterior storage.* Exterior materials storage must be screened from view from adjacent public streets and adjacent residential properties, by a wing of the principal structure or a screen wall constructed of the same materials as the principal structure. Height of the structure or screen wall must be sufficient to completely conceal the stored materials from view at eye level (measured at six feet above ground level) on the adjacent street or property.

(e) *Screening of existing residential structures.* When a new development is proposed adjacent to an existing single-family residential structure, screening shall be provided in accordance with LEC 105.12.480(f). The city may require buffering or screening above and beyond this section in cases where the required screening will not provide an adequate separation between incompatible uses.

(f) *Sidewalks and/or trails.* Where cul-de-sacs are permitted by the city, sidewalks or trails are required to connect the bulb of the cul-de-sac with the nearest through-road or trail.

(g) *Lake Elmo Theming Study.* Elements of the Lake Elmo Theming Study not herein described must be incorporated in to development within village districts where applicable.

(Code 2007, § 154.504; Ord. No. 08-091, 11-13-2013; Ord. No. 08-175, 5-16-2017)

105.12.820 Development Standards For Specific Uses

Development of land within the village districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified

in LEC 105.12, arts. V, VI and VII. The following standards apply to specific uses; other standards related to design and building type may be found at LEC 105.12.830.

(a) *Residential units, village districts.*

(1) *All residential units, village districts.* Residential housing units shall be designed to reflect the general scale and character of the village, including front yard depth, height and roof pitch, primary materials, facade detailing and size and placement of window and door openings.

(2) *Single-family detached dwellings, village districts.*

- a. No parking shall be located in the front yard or between the front facade and the street except on a permitted driveway.
- b. Primary entrances are required to be along the front facade.
- c. Dwelling units shall be at least 24 feet in width, at least 960 square feet in area, and be placed on a permanent foundation.

(3) *Secondary dwellings, village district.* Restricted to lots occupied by single-family dwellings, and must meet the standards for secondary dwellings in residential districts, LEC 105.12.740(c) and be located within the primary structure.

(4) *Single-family detached and two-family dwellings, VMX district.* Unless otherwise specified in this article, single- and two-family dwellings in the VMX district shall adhere to the LDR district setbacks as specified in LEC 105.12.720.

(5) *Single-family attached, VMX district.*

- a. The primary entrance to each unit shall be located on the facade fronting a public street; an additional entrance may be provided on the rear or side facade.
- b. Common open space for use by all residents or private open space adjacent to each unit shall be provided. Such open space shall compromise a minimum of 300 square feet per unit.
- c. No parking shall be located in the front yard or between the front facade and the street except on a permitted driveway.
- d. Unless otherwise specified in this article, single-family attached dwellings in the VMX district shall adhere to the MDR district setbacks as specified in LEC 105.12.730.

(6) *Multifamily dwelling units, VMX district.*

- a. Dwelling units (both condominium and rental) within a mixed-use

building are restricted to the upper floors or rear or side ground floors.

- b. Setback standards for multifamily dwellings not within a mixed-use development shall be determined through the conditional use process.

(7) *All other residential uses, VMX district.* Setbacks for all other residential uses within the village districts not specifically outlined in this section shall be determined by either LEC 105.12.830 or through the conditional use process.

(b) *Nonresidential uses, VMX district.*

(1) *Setbacks, generally.* The front yard setback of a new nonresidential building within the VMX district shall maintain the prevailing front yard setback of that block, or a maximum setback of 20 feet, whichever is less.

(2) *Repair and maintenance shop.* No outdoor storage is permitted unless fully screened from public view.

(3) *Trade shop.* Exterior materials storage must be totally screened from view from adjacent public streets and adjacent residential properties by a wall of the principal structure or a screen wall constructed of the same materials as the principal structure.

(4) *Veterinary services.*

- a. All activities must be conducted within an enclosed building.
- b. Specific veterinary practices shall be limited to veterinary medicine, surgery, dentistry, and related service for small domestic household pets.

(5) *Garden center.*

- a. The storage or display of any materials or products shall meet all setback requirements of a structure, and shall be maintained in an orderly manner. Screening along the boundaries of adjacent residential properties may be required, meeting the standards of LEC 105.12.470(f).
- b. All loading and parking shall be provided off-street.
- c. The storage of any soil, fertilizer or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses.

(6) *Automobile maintenance service and automobile parts/supply.*

- a. All vehicle repairs shall be conducted in a completely enclosed building.
- b. The storage or display of inoperable or unlicensed vehicles or other equipment shall meet all setback requirements of a structure, and shall be totally screened from view from adjacent public streets and adjacent residential properties.

(7) *Live-work unit.* The purpose of a live-work unit is to provide a transitional use type between a home occupation and a larger commercial enterprise, and to provide neighborhood-oriented commercial services, while maintaining a generally residential character in which the work space is subordinate to the residential use.

- a. The work space component shall be located on the first floor or basement of the building.
- b. The dwelling unit component shall maintain a separate entrance located on the front or side facade and accessible from the primary abutting public street.
- c. The work space component of the unit shall not exceed 30 percent of the total gross floor area of the unit.
- d. A total of two off-street parking spaces shall be provided for a live-work unit, located to the rear of the unit, or underground/enclosed.
- e. The size and nature of the work space shall be limited so that the building type may be governed by residential building codes. An increase in size or intensity beyond the specified limit on floor area would require the building to be classified as a mixed-use building.
- f. The business component of the building may include offices, small service establishments, home crafts which are typically considered accessory to a dwelling unit, or limited retailing (by appointment only) associated with fine arts, crafts, or personal services. It may not include a wholesale business, a commercial food service requiring a license, a limousine business or auto service or repair for any vehicles other than those registered to residents of the property.
- g. The business of the live-work unit must be conducted by a person who resides on the same lot. The business shall not employ more than two workers on-site at any one time who live outside of the live-work unit.

(8) *Parking facility.* Structured parking is permitted as a ground floor use within a mixed-use building, provided that the entrance is located on side

or rear facades, not facing the primary abutting street. The primary street-facing facade shall be designed for retail, office or residential use.

- (9) *Outdoor dining accessory to food services.* Outdoor dining is allowed as an accessory use in the commercial districts, provided that tables do not block the sidewalk. A minimum of five feet of sidewalk must remain open.

(Code 2007, § 154.505; Ord. No. 08-091, 11-13-2013; Ord. No. 08-175, 5-16-2017)

105.12.830 VMX District Design And Demolition Review

- (a) *Review of design.* For certain development activity, as specified in the Lake Elmo Design Standards Manual, design review is required as part of the approval process for a building permit, conditional use permit, or certificate of zoning compliance under this section. All projects subject to design review shall be reviewed for conformance with the Lake Elmo Design Standards Manual. A separate process for design review is not established.

- (1) *Review authority and process.* Design review shall be the responsibility of the individual or body authorizing the permit or certificate and shall be incorporated in the established review of the applicable building permit, conditional use permit, or certificate of zoning compliance. For those applications under this section that require review by the planning commission (i.e., conditional use permits), the planning commission shall consider the standards in the Lake Elmo Design Standards Manual as part of its recommendation to the city council.

- (2) *Review by professional.* The authorizing body may request review by a design professional of the proposed design or demolition. The cost of review by such design professional shall be charged by the applicant, and shall not exceed \$1,000.00 unless otherwise agreed to by the applicant.

- (3) *Development activity defined.*

- a. Development activity consists of new construction and redevelopment activities, including remodeling that expands the footprint of a structure, altering, or repairing a structure in a manner that will change the exterior appearance of said structure. Development activity also includes the construction of a new parking lots and installation of signage.
- b. Exempt activities. The following activities shall be exempt from under review of this section:
 1. Ordinary repairs and maintenance that will not change the exterior appearance of a structure;

2. Removal of existing signage without replacement unless said signs are an integral part of the building;
3. Emergency repairs ordered by the director of planning in order to protect public health and safety;
4. Exterior alteration, addition, or repair of a structure used as a single-family residence, duplex, or two-family residence;
5. Temporary signage, installed in accordance with LEC 105.12.430, or during which time an application for permanent signage is pending under this section;
6. Maintenance of existing signage advertising an on-site business;
7. Alterations only to the interior of a structure.

(Code 2007, § 154.506; Ord. No. 08-091, 11-13-2013; Ord. No. 08-175, 5-16-2017)

105.12.840 Accessory Uses And Structures

Accessory uses are listed in Table 11-1 as permitted or conditional accessory uses. Accessory uses and structures in the village districts shall comply with the following standards and all other applicable regulations of this article:

- (a) *Phasing*. No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- (b) *Incidental to principal use*. The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- (c) *Subordinate to principal use*. The accessory use or structure shall be subordinate in the area, extent, and purpose to the principal use or structure served.
- (d) *Function*. The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served.
- (e) *Location*. The accessory use or structure shall be located on the same zoning lot as the principal use or structure.
- (f) *Residential accessory structures*.
 - (1) *Design compatibility*. On parcels used for residential structures within the village districts, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and

construction of the main building. The exterior building materials, roof style, and colors shall be similar to or compatible with the main building or shall be commonly associated with residential construction.

(2) *Attached structures.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:

- a. The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located.
- b. The structure shall not exceed the height of the principal building to which it is attached.

(3) *Attached garages.*

- a. Attached garages are encouraged to be side or rear loaded. If facing the primary street, garages shall be designed using one of the following techniques, unless specific physical conditions on the lot in question require a different approach:
 1. The front facade of the garage shall be offset from the principal structure by a minimum of two feet from the plane of the public right-of-way.
 2. The width of the attached garage shall not exceed 40 percent of the width of the entire principal building facade (including garage) fronting the primary street within the VMX district and 60 percent of the width of entire principal building facade (including garage) fronting the primary street within the V-LDR district.
- b. Attached garages shall not exceed 1,000 square feet in area at the ground floor level except by conditional use permit.
- c. Garage doors or openings shall not exceed 14 feet in height.

(4) *Detached structures.* Detached accessory structures for permitted residential structures in the village districts must be in accordance with the following requirements:

- a. Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.
- b. Detached garages shall not exceed 1,000 square feet at ground floor level and shall not exceed a height of 22 feet or the height of

the principal structure, whichever is higher. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.

- c. Pole barns, as defined herein, shall be prohibited.
 - d. No more than 30 percent of the rear yard area may be covered by accessory structures.
 - e. Garage doors or openings shall not exceed 14 feet in height.
- (g) *Exterior storage on residential parcels.* All materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:
- (1) Laundry drying.
 - (2) Construction and landscaping materials and equipment currently being used on the premises. Materials kept on the premises for a period exceeding six months shall be screened or stored out of view of the primary street on which the house fronts.
 - (3) Agricultural equipment and materials, if these are used or intended for use on the premises.
 - (4) Off-street parking and storage of vehicles and accessory equipment, as regulated in LEC 105.12.410.
 - (5) Storage of firewood shall be kept at least ten feet from any habitable structure and screened from view of adjacent properties.
 - (6) Outdoor parking.
- (h) *Temporary sales.* Temporary sales, also known as yard or garage sales, are permitted in all residential districts, limited to two per calendar year per residence, not to exceed four days in length for each event.
- (i) *Accessory uses and structures not listed.* Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in LEC 105.12, art. VII, specific development standards. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment.

(Code 2007, § 154.507; Ord. No. 08-091, 11-13-2013; Ord. No. 08-175, 5-16-2017)

ARTICLE XIV MIXED-USE COMMERCIAL AND MIXED-USE BUSINESS PARK DISTRICTS

[105.12.850 Purpose And District Descriptions](#)

[105.12.860 Mixed-Use Commercial And Mixed-Use Business Park Review Procedure](#)

[105.12.870 Permitted, Conditional And Interim Uses](#)

[105.12.880 Lot Dimensions And Building Bulk Requirements](#)

[105.12.890 General Site Design Considerations, Mixed-Use Commercial And Mixed-Use Business Park](#)

[105.12.900 Development Standards For Specific Uses](#)

105.12.850 Purpose And District Descriptions

(a) MU-C Mixed-Use Commercial.

- (1) The purpose of the mixed-use commercial district is to provide areas in the city for and promote mixed-use development that supports a sustainable mix of retail, commercial and residential uses that will benefit from proximity and adjacency to one another. The mixed-use commercial district will serve as a transitional district between more intense highway-oriented development and less intense rural or medium density residential uses. The intent of the mixed-use commercial district is to permit flexibility in the use of the land, while providing a set of minimum development standards in site design, spatial relationships, building architecture and landscape design that will allow property owners to design and construct development projects that respond both to market needs and to city goals and policies. The placement and treatment of buildings, parking, signage, landscaping and pedestrian spaces are essential elements in creating a livable environment in a mixed-use area. The transitional aspect of development in this district requires projects that are designed with a special focus on mitigating any negative impacts on existing and future development in the area. The city will evaluate new development proposals for their consistency with this goal and the city may require developers to amend or change development proposals. The city may deny proposals when the city finds them to be inconsistent with the goals and policies of the city.
- (2) The district promotes attractive, inviting, high-quality retail shopping and service areas that are conveniently and safely accessible by multiple travel modes. Development shall incorporate creative design and buffering techniques to ensure smooth transitions between different types of development or different intensities of uses. At least 50 percent of the net developable area of a proposed mixed-use commercial development is to be residential, and residential development within these areas shall occur at a density range of ten to 15 units per acre. If a proposed development does not include at least 50 percent of the net developable land area in residential development, the city will require the applicant to provide a ghost plat (build-out plans) during sketch plan review that proposes how the parcel or area adjacent to the proposed development will be used in order to meet the requirement for at least 50 percent of the

project site with residential land uses. This method of subdivision (by showing future land use and subdivision) and development review is a front-loading process that preserves land for future residential use. The city will use the ghost plat or sketch plan as an official document to establish land use consistent with the comprehensive plan.

(b) MU-BP Mixed-Use Business Park.

- (1) The purpose of the mixed-use business park district is to provide areas in the city that will have a mix of general business, business park and residential uses. Having a mixture of land uses within the district allows for better integration of uses and more flexibility to respond to market demands. The district promotes high standards of site design, spatial relationships, building architecture and landscape design that will foster compact developments with pedestrian convenience and human scale and will preserve and strengthen existing businesses and land uses. The placement and treatment of buildings, parking, signage, landscaping and pedestrian spaces are essential elements in creating a livable environment in a mixed-use area. The city will evaluate new development proposals for their consistency with this goal and the city may require developers to amend or change development proposals. The city may deny proposals when the city finds them to be inconsistent with the goals and policies of the city.
- (2) The city allows light industrial and limited manufacturing in this district with the city approval of a conditional use permit. All business activities and storage in this district are to be conducted inside buildings that are of high quality and attractive. The city will require developers and builders in the district to provide open space, quality landscaping and berming as part of their projects. Development in this district shall incorporate creative design and buffering techniques to ensure smooth transitions between different types of development or different intensities of uses. At least 50 percent of the net developable area of a proposed mixed-use business park development is to be residential, and residential development within these areas shall occur at a density range of six to ten units per acre. If a proposed development does not include at least 50 percent of the net developable land area in residential development, the city will require the applicant to provide a ghost plat (build-out plans) during sketch plan review that proposes how the parcel or area adjacent to the proposed development will be used in order to meet the requirement for at least 50 percent of the project site with residential land uses. This method of subdivision (by showing future land use and subdivision) and development review is a front-loading process that preserves land for future residential use. The city will use the ghost plat or sketch plan as an official document to establish land use consistent with the comprehensive plan.

(Ord. No. 08-222, § 1(154.508), 2-19-2019)

105.12.860 Mixed-Use Commercial And Mixed-Use Business Park Review Procedure

All development within the mixed-use commercial and mixed-use business park zoning districts shall follow the review and approval process outlined in this section. No development in the MU-C or MU-BP will be permitted prior to the completion of all stages of review, nor with the submission of all required documents, including any additional documents that may be required by the city in the review of the proposed MU-C or MU-BP development.

(a) *Submittal requirements.* In general, the submittal requirements outlined in the city's subdivision regulations shall apply in addition to the application requirements outlined below. If the development is proposed to be a planned unit development, the application requirements outlined in the city's planned unit development process also shall apply. These submittal requirements shall be submitted to the city for the sketch plan and preliminary stages of any development. If the property has already been platted, the development shall still be subject to the following submittal requirements, and the development shall be subject to mixed-use development review. The application requirements for a mixed-use development review shall be the same as those required in LEC 105.12.240 regardless if the proposed uses are permitted. The following outlines the minimum application requirements applicable for a proposed development within the MU-C and MU-BP districts:

- (1) A narrative description of the mixed-use project, including how the project fulfills the purposes of the MU-C or MU-BP district.
- (2) Identification of minimum required land area to be devoted for residential uses and the land area proposed for commercial, industrial or other land uses based on zoning ordinance and comprehensive plan documents governing land use on the subject property or properties.
- (3) Clear demonstration and documentation that the project or development can achieve the required residential densities.
- (4) For all business and/or commercial areas, a sketch plan illustrating the proposed layout of commercial buildings and related improvements; alternatively, where business or commercial areas are not proposed to be developed immediately, the applicant may submit an estimate of the commercial development capacity of the property in square feet of commercial building space.
- (5) A statement identifying the minimum and maximum development capacity, by land use category, for future phases of the project.

- (6) If a proposed development does not include at least 50 percent of the developable land area in residential development, the applicant will be required to provide a ghost plat (build-out plans) during sketch plan review that proposes how the parcel or area adjacent to the proposed development will be used in order to meet the 50 percent residential/50 percent commercial requirement. If an adjacent parcel is included in this ghost plat, the adjacent property owner must sign off on the application or the city will determine that the request does not meet the minimum residential requirements of this Code and will deny the development application or proposal.

(b) *Mixed-use commercial and mixed-use business park review and approval procedures.* The review procedures outlined in the city's subdivision regulations shall apply as applicable, in addition to the review procedures outlined below. If the development is proposed to be a planned unit development, the review procedures outlined in the city's planned unit development process shall also apply. If the property has already been platted, the development shall be subject to mixed-use development review. The city review and approval process for a mixed-use development review of a previously platted property shall be the same as outlined in LEC 105.12.290 regardless if the proposed uses are permitted. Expansion of existing permitted uses on the same parcel on which they exist will not require a mixed-use development review.

- (1) *Ghost plat as an official document.* If a ghost plat submitted with the mixed-use development review because the proposed development could not meet the required mix of having at least 50 percent of the site in residential land uses, the city will use the ghost as an official document to establish a land use mix consistent with the comprehensive plan. The ghost plat or build-out plan shall show a realistic future urban-style lot and block layout and street system, taking into consideration existing streets and access points, utilities, topography, natural features (water bodies, wetlands, etc.) and shall show how the proposed development will not isolate the adjacent land or property making them undevelopable.
- (2) *Rules and regulations.* The city shall review and process mixed-use development requests consistent with all city and state requirements. No requirement outlined in the mixed-use development review process shall restrict the city council from taking action on an application if necessary to meet state mandated time deadlines.
- (3) *Preconstruction.* No building permit shall be granted for any structure within the MU-C or MU-BP districts without approval from the city of the mixed-use development review unless the proposed building is part of an existing development.
- (4) *Effect on conveyed property.* In the event that any real property in an approved mixed-use development review is conveyed in total, or in part,

the new owners thereof shall be bound by the provisions of the mixed-use development review and approvals.

- (5) *Tracking of required 50 percent residential/50 percent commercial requirement.* The city shall create a database to track the residential units, the associated residential density (in units per acre) and the acreages of residential and other land uses associated with each development approved by the city with and by the mixed-use development review process.
- (6) *Changes or modifications.* Requests for changes or modifications of an approved mixed-use development shall be made in writing to the city and shall be submitted to the planning director. The determination of whether a proposed modification is minor or major shall be made at the discretion of the planning director.

(Code 2007, § 154.509; Ord. No. 08-222, § 1(154.509), 2-19-2019)

105.12.870 Permitted, Conditional And Interim Uses

Table 14-1 lists all permitted and conditional uses allowed in the commercial areas of the MU-C and MU-BP zoning districts. "P" indicates a permitted use, "C" a conditional use and "I" an interim use. Uses not so indicated are prohibited. Cross-references listed in the table under "Standards" indicate the location within this chapter of specific development standards that apply to the listed use.

Combinations of uses. The following use types may be combined on a single parcel.

- (a) Principal and accessory uses.
- (b) Single-family attached or multifamily complexes designed for rental or condominium occupancy, since these typically include multiple units and buildings on a single parcel.
- (c) Other permitted or conditional uses allowed within the district may be combined on a single parcel, provided the city approves a unified and integrated site plan. The city must approve the entire development as a conditional use.
- (d) A mixed-use building that combines permitted or conditionally permitted residential, service, retail and civic uses may be developed meeting the form standards of this section. Office or studio uses on upper stories of such buildings are encouraged.
- (e) Compatible uses. In the event of any question as to the appropriate use type or compatibility of any proposed land use or activity in a mixed-use development, the planning director shall have the authority to determine if the city should consider the use or activity as permitted, conditional or prohibited from a location

in a mixed-use zoning district. In making such a determination, the planning director shall consider the operational and physical characteristics of the proposed use or activity in question. In addition, the planning director shall consider the specific requirements of the use in common with those included as permitted or conditional uses in the zoning district. Where a question or conflict arises as to the appropriateness or compatibility of a proposed use or activity, the planning director shall refer the matter to the planning commission. The planning commission shall make a recommendation about the matter to the city council, who shall make the final determination as to whether the city will allow (or not allow) a proposed use; is compatible as a permitted use or as a conditional use; is compatible as an accessory use; or is a use that may be added to a specific mixed-use development within the zoning district.

Table 14-1: Permitted, Conditional and Interim Uses, Mixed-Use Commercial and Mixed-Use Business Park Districts

	<i>M U- C</i>	<i>MU -BP</i>	<i>Standard</i>
Residential Uses			
Household Living:			
Single-family detached dwelling	P	P	LEC 105.12.900(a)
Single-family attached dwelling	P	P	LEC 105.12.900(b)
Multifamily residential dwelling	P	P	LEC 105.12.900(c)
Secondary dwelling	C	C	LEC 105.12.900(d)
Live-work unit	C	C	LEC 105.12.900(e)
Group Living:			
Group home	P	P	LEC 105.12.500(a)
Group residential facility	C	C	LEC 105.12.500(b)
Congregate housing	C	C	LEC 105.12.500(c)
Semi-transient accommodations	C	C	LEC 105.12.500(d)
Public and Civic Uses:			
Community services	C	C	LEC 105.12.900(f)
Day care center	C	C	LEC 105.12.110(b)
Public assembly	C	C	LEC 105.12.900(f)
Services:			

Business center	P	P	LEC 105.12.110(b)
Business services	P	P	LEC 105.12.110(b)
Offices	P	P	LEC 105.12.110(b)
Communication services	P	P	LEC 105.12.110(b)
Educational services	P	P	LEC 105.12.510(a); LEC 105.12.900(g)
Financial institution	P	P	LEC 105.12.110(b)
Funeral home	C	-	LEC 105.12.900(h)
Lodging (transient accommodations)	C	C	154.302(d)
Medical facility	C	C	LEC 105.12.510(b); LEC 105.12.900(i)
Nursing and personal care	C	C	LEC 105.12.510(c)
Personal services	P	P	LEC 105.12.110(b)
Repair and maintenance shop	P	P	LEC 105.12.900(j)
Transportation services	C	C	LEC 105.12.110(b)
Veterinary services	C	C	LEC 105.12.900(l)
Food Services:			
Standard restaurant	P	P	
Restaurant with drive-through	C	C*	LEC 105.12.520(a); LEC 105.12.900(m); *LEC 105.12.900(n)
Drinking and entertainment	C	C	LEC 105.12.520(b)
Sales of Merchandise:			
Garden center	P	-	LEC 105.12.900(p)
Neighborhood convenience store	P	-	LEC 105.12.110(b)(5)
Retail trade	C	C*	*LEC 105.12.110(b)(5)
Shopping center	C	-	LEC 105.12.110(b)(5)
Wholesaling	C	C	
Automotive/Vehicular Uses:			
Motor vehicle (automobile) parts/supply	C	-	LEC 105.12.830(b)(5)
Vehicle (car) wash:	C	-	

Motor fuel (gasoline) station	C	-	LEC 105.12.830(b)
Parking facility	C	C	LEC 105.12.830(b)(7)
Outdoor Recreation:			
Outdoor recreation facility	C	-	LEC 105.12.550(c)
Parks and open areas	P	P	LEC 105.12.110
Indoor Recreation/Entertainment:			
Indoor athletic facility	C	C	LEC 105.12.560
Indoor recreation	C	C	LEC 105.12.560
Industrial and Manufacturing Uses:			
Light industrial/limited manufacturing		C	LEC 105.12.110
Non-production industrial		C	(See Note X on page 17)
Research and testing	C	C	LEC 105.12.110
Transportation and Communications:			
Broadcasting or communications facility	C	C	
Accessory Uses:			
Home occupation	P	P	LEC 105.12.110(b)(13) and LEC 105.04.220(e)
Bed and breakfast	P	P	LEC 105.04.220(a)
Family day care	P	P	LEC 105.12.110(l)(4)
Group family day care	P	P	
Temporary sales	P	P	LEC 105.12.860(g)
Parking facility	P	P	
Outdoor storage	C	-	
Outdoor display	C	-	
Solar energy system	P	P	LEC 105.04.220(c)
Wind generator - ground mounted	C	C	LEC 105.12.570(b)
Wind generator - roof/structure mounted	C	C	LEC 105.12.570(b)
Swimming pools, hot tubs, etc.	P	P	LEC 105.08.160(c)
Other structure typically incidental and clearly subordinate to permitted uses	P	P	

(Code 2007, § 154.510; Ord. No. 08-222, § 1(154.510), 2-19-2019; Ord. No. 08-243, § 4, 2021)

105.12.880 Lot Dimensions And Building Bulk Requirements

Lot area and setback requirements shall be as specified in Table 14-2: Lot Dimension and Setback Requirements, Mixed-Use-Commercial and Mixed-Use-Business Park Districts.

Table 14-2: Lot Dimension and Setback Requirements, Mixed-Use-Commercial and Mixed-Use-Business Park Districts

	<i>MU-C</i>	<i>MU-BP</i>
Minimum Lot Area (square feet): ^{a, c}		
Single-family detached dwelling	4,000	5,000
Two-family dwelling (per unit)	3,000	4,000
Single-family attached dwelling (per unit) ^b	See note 1	See note 1
Multifamily dwelling (per unit)	See note 1	See note 1
Secondary dwelling	See section LEC 105.12.740(c)	
Live-work unit	3,000	3,000
Nonresidential uses	20,000	85,000
Minimum Lot Width (feet):		
Single-family detached dwelling	50	50
Two-family dwelling (per unit)	20	20
Single-family attached dwelling (per unit) ^b	20	20
Multifamily dwelling (per building)	60	60
Live-work unit	25	25
Nonresidential uses	100	200
Maximum Height (feet) ⁱ	50	50
Maximum impervious coverage (non-shoreland areas)	75 percent	75 percent
Building Setback Requirements (feet):		
Residential uses:		

Front yard ^d	20	20
Interior Side Yard: ^f		
Principal buildings	7	7
Attached garage or accessory structures ^{e,f}	5	5
Corner side yard ^g	10	10
Rear yard	20	20
Nonresidential Uses:		
Front yard ^d	30	50
Interior side yard ^j	10	30
Corner side yard ^g	25	30
Rear yard	30	30
From residential zones	50	150
Parking Setback Requirements (feet):		
Front yard	15	30
Interior side yard	10	15
Corner side yard	15	30
Rear yard	10	15
From residential zones	35	50
Notes to Mixed-use Commercial and Mixed-use Business Park Districts Table:		
a. Common open space areas may be used in determining whether or not the minimum lot areas within a development are met, when provided as part of an overall development plan.		
b. Two-family units may be side-by-side with a party wall between them (twin) or located on separate floors in a building on a single lot (duplex). The per-unit measurements in this table apply to twin units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a duplex containing two vertically-separated units on a single lot.		
c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e., one unit per 2,500 square feet. This standard also is used for multifamily dwellings.		
d. In a block where the majority of the block face has been developed with the same or similar setbacks, the front setback for the remaining lots on that block face shall fall within the range established by the existing setbacks.		

e. In situations where a garage or accessory building is set back less than seven feet from a side property line, the maximum permitted encroachment for anything attached to said building (including eaves, overhangs, steps, chimneys, and other appurtenances as described in LEC 105.12.200) will be two feet.
f. Side yard setbacks shall apply to the ends of attached or two-family dwellings.
g. Corner properties. The side facade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.
h. Attached garages and accessory structures on parcels on which single-family homes are located may have a side yard setback of five feet.
i. Buildings higher than 50 feet may be allowed through a conditional use permit and would be subject to a separate technical and planning evaluation.
j. All accessory buildings for nonresidential uses must be set back at least ten feet from property lines.
k. Ground-mounted wind generators may exceed the allowable height restriction designated in all commercial districts and are subject to different setback requirements as identified in section LEC 105.12.560(b).
l. The total number of housing units or residential density in any development shall not exceed the maximum density allowed by the land use classification as designated in the city's comprehensive plan.

(Code 2007, § 154.511; Ord. No. 08-222, § 1(154.511), 2-19-2019; Ord. No. 08-228, § 3, 7-2-2019)

105.12.890 General Site Design Considerations, Mixed-Use Commercial And Mixed-Use Business Park

Development of land within the mixed-use commercial and mixed-use business park shall meet the following general standards, in addition to those standards set forth in the city's Design Guidelines and Standards Manual and the Development Standards for Specific Uses (listed below):

- (a) *Design and layout.* The design and layout of a mixed-use development shall take into account the relationship of the site to the surrounding area. The perimeter of a mixed-use site shall be designed and constructed to minimize undesirable impacts of the mixed-use site on adjacent or nearby properties.
- (b) *Location of residential and commercial development, generally.* Residential development within the mixed-use development shall be located adjacent to existing residential development in order to provide a transition to commercial development unless sufficient buffering and screening, as determined by the city, is provided.

- (c) *Commercial and business park development, generally.* Developers and applicants shall design additions and all new construction to reflect the general scale and character of existing buildings on surrounding blocks, including front yard depth, roof pitch, primary materials, facade detailing and size and placement of window and door openings. All commercial/business/industrial buildings and sites are expected to meet or exceed the Lake Elmo Design Guidelines and Standards.
- (d) *Mitigation.* Where the industrial or commercial nature of adjacent uses would be incompatible with residential development due to noise, vibration, odor, light, glare or other disturbance, reasonable effort shall be taken to minimize such impacts. Mitigation may include, but is not limited to, increased setbacks, the planting of substantial landscaping for buffering and/or the construction of a wall, fence or earth berm between properties.
- (e) *Circulation.* New access points to a County State Aid Highway may be refused or restricted to right-in, right-out movement if alternatives exist. Internal connections shall be provided between parking areas on adjacent properties wherever feasible. In addition, the number and width of curb cuts shall be minimized. To promote pedestrian circulation, existing continuous curb cuts shall be reduced to widths necessary for vehicular traffic, and unnecessary or abandoned curb cuts shall be removed as parcels are developed.
- (f) *Fencing and screening.* Fencing and screening walls visible from the public right-of-way shall be constructed of materials compatible with the principle structures.
- (g) *Lighting design.* Lighting shall be integrated into the exterior design of new or renovated structures to create a greater sense of activity, security and interest to pedestrians, and shall comply with LEC 105.04.050 et seq.
- (h) *Exterior storage.* Exterior materials storage must be screened from view from adjacent public streets and adjacent residential properties, by a wing of the principal structure or by a screen wall constructed of the same materials as the principal structure. The city may approve other materials for the required screening if the city determines the proposed design and materials of the screening would be of a similar design and character of the principle structure. The height of the structure or screen wall must be sufficient to completely conceal the exterior stored materials from view at eye level (measured at six feet above ground level) on the adjacent street.
- (i) *Screening of existing residential structures.* When a new development is proposed adjacent to existing single-family residential homes, the developer shall provide screening in accordance with LEC 105.12.480(f). The city may require buffering or screening above and beyond this section in cases where the city determines the required screening will not provide an adequate separation between incompatible uses.

105.12.900 Development Standards For Specific Uses

(a) Single-family detached dwellings.

- (1) All single-family dwellings shall be at least 24 feet in width, at least 960 square feet in area, and be placed on a permanent foundation.
- (2) No parking shall be located in the front yard or between the front facade and the street except on a permitted driveway.
- (3) The primary entrance shall be located on the facade that fronts a public street.

(b) Single-family attached dwellings.

- (1) A maximum of ten units shall be allowed within a single building. Buildings with more than ten units may be allowed as a conditional use.
- (2) Townhouse dwellings shall be located on lots in such a way that each individual unit has a minimum of 15 feet of street frontage. No parking shall be located in the front yard or between the front facade and the street except on a permitted driveway. Townhouses that do not meet the minimum requirements for frontage along the street or that have frontage along a private street may be allowed as a conditional use.

(c) Multifamily dwellings.

- (1) No vehicle parking shall be located in the front yard or between the front facade and the street.
- (2) Common open space for use by all residents or private open space adjacent to each unit (such as a courtyard or balcony or a combination of these) shall be provided. Such open space shall comprise a minimum of 300 square feet per unit.

(d) Secondary dwellings.

- (1) A secondary dwelling unit may be located within a principal structure used as a single-family detached dwelling, above a detached garage, or within a separate detached structure.
- (2) There shall be no more than one secondary dwelling unit on any one lot or parcel.
- (3) At least one dwelling unit on each lot or parcel shall be owner-occupied.
- (4) The minimum lot area shall be 2,500 square feet greater than the minimum lot area required for a single-family detached dwelling in the

zoning district.

- (5) If the secondary unit is included in the principal building, the appearance of the building shall remain that of a single-family dwelling. Any new or additional entrances must face the side or rear of the building.
- (6) Whether the secondary unit is an addition to an existing structure or a new detached structure, roof pitch, windows, eaves and other architectural features must be the same or visually compatible with those of the principal building. Exterior finish materials and trim must be the same or closely match in type, size and location the materials and trim of the principal building.
- (7) A secondary unit within the principal structure shall not contain more than 30 percent of the principal building's total floor area or 800 square feet, whichever is less. A detached secondary unit shall not exceed 1,000 square feet in gross floor area.

(e) *Live-work unit.*

- (1) The work space component of the unit shall be located on the first floor or basement of the building.
- (2) The dwelling unit component shall maintain a separate entrance located on the front or side facade and accessible from the primary abutting public street.
- (3) The work space component of the unit shall not exceed 30 percent of the total gross floor area of the unit.
- (4) A total of two off-street parking spaces shall be provided for a live-work unit, located to the rear of the unit or underground or in an enclosed space.
- (5) The size and nature of the work space shall be limited so that the building type may be governed by residential building codes. An increase in size or intensity beyond the specified limit on floor area would require the building to be classified as a mixed-use building.
- (6) The business component of the building may include offices, small service establishments, home crafts, etc., that are typically considered accessory to a dwelling unit, or limited retailing (by appointment only) associated with fine arts, crafts, or personal services. It may not include a wholesale business, a manufacturing business, a commercial food service requiring a license, a limousine business, small engine or power equipment repair or service or a motor vehicle service or repair facility for any motor vehicles other than those registered to residents of the property.
- (7) The business of the live-work unit must be conducted by a person who resides on the same lot. The business shall not employ more than two

workers on-site at any one time who live outside of the live-work unit.

(f) *Public assembly and community services.*

- (1) No exterior bells or loudspeakers are allowed.
- (2) The structure containing the use shall be no less than 100 feet from residential properties.
- (3) Outdoor recreation areas shall be setback a minimum of 100 feet from residential properties with adequate screening.
- (4) The building's meeting space seating capacity shall not exceed 500 persons.

(g) *Educational services.*

- (1) The structure containing the use shall be no less than 100 feet from residential properties.
- (2) Outdoor recreation areas shall be setback a minimum of 100 feet from residential properties with adequate screening.
- (3) The number of persons on-site at any given time shall not exceed 700, with the exception of larger events occurring no more than four times per year.

(h) *Funeral home.* The site shall have access to an arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate. The site shall have a minimum of two driveways or vehicle access points. Crematoriums are not allowed.

(i) *Medical facilities.* Medical facility structures, primary vehicular access points, and landing pads for helicopters involved in emergency transport or rescue operations shall not be located within 1,500 feet of a residential property.

(j) *Repair and maintenance shop.* No outdoor storage is permitted. All business activities (including repairs and maintenance) shall be conducted completely indoors.

(k) *Veterinary services.* All activities and services must be conducted within an enclosed building. Crematoriums are not allowed.

(l) *Restaurant with drive-through.* All parts of the drive-through lanes shall be no less than 200 feet from residential properties.

(m) *Standard restaurant and restaurant with drive-through, MU-BP district.* Must be incorporated as part of a larger business center or lodging use.

(n) *Retail trade, MU-BP district.* Limited to uses clearly incidental and accessory to a permitted or conditionally permitted principal use of the land. The compounding,

dispensing or sale of drugs, prescription items, patient or proprietary medicine, sick room supplies, prosthetic devices or items relating to any of the permitted or conditionally permitted uses is only allowed when conducted in the building occupied primarily by medical facilities or offices.

(o) *Garden center.*

- (1) The storage or display of any materials or products shall meet all primary building setback requirements of a structure, and shall be maintained in an orderly manner. Screening along the boundaries of adjacent residential properties may be required, meeting the standards of LEC 105.12.950(g).
- (2) All loading and vehicle parking associated with the business shall be provided off-street.
- (3) The storage of any soil, fertilizer, landscape rock, mulch or other loose, unpackaged materials shall be contained so as to prevent any negative effects on adjacent uses.

(p) *Motor vehicle parts/supply.*

- (1) The structure containing the parts supply shall be no less than 200 feet from residential properties or land uses.
- (2) The storage or display of inoperable or unlicensed vehicles or other equipment shall meet all setback requirements of a primary structure, and shall be totally screened from view from adjacent public streets and adjacent residential properties.
- (3) No test driving of vehicles shall be permitted on local residential streets.
- (4) The city does not allow the sales, exterior storage, or display of motor vehicles in the mixed-use zoning districts.

(q) *Motor vehicle washes.*

- (1) The structure containing the vehicle wash shall be no less than 200 feet from residential properties.
- (2) The city may require additional screening to limit sight and noise impacts of service or wash bays.
- (3) The owner or operator shall submit equipment specifications to the city. The city may require the owner or operator of the vehicle wash to implement noise reduction measures to minimize potential negative impacts to nearby residential properties.
- (4) The developer and owner shall make adequate provisions for vehicle circulation and stacking on-site. Stacking requirements shall be based on

the specifications of the vehicle wash and the amount of time required to wash each vehicle.

(r) *Motor vehicle fuel stations.*

- (1) Fuel pumps, canopies and structures shall be no less than 200 feet from residential uses.
- (2) The city may require additional screening to limit the impact of headlights and noise on adjacent property.

(s) *Parking facility.*

(1) *Within a mixed-use building.*

- a. Structured parking is allowed only as a ground floor use within a mixed-use building, provided that it is located on side or rear facades, not facing the primary abutting street.
- b. The primary street-facing facade shall be designed for retail, office or residential use.

(2) *In general, as an accessory use.*

- a. The parking structure shall not exceed the height of the principal structure on the parcel.
- b. The parking structure shall meet the exterior building material requirements of the district and shall be consistent with the architectural design of the principal structure.

(t) *Sales and storage lots.*

- (1) All inventory shall be stored and displayed inside of a building or within an approved outdoor storage area that shall meet the standards required herein.
- (2) The outdoor storage of vehicles is prohibited.

(u) *Outdoor recreation facility.*

- (1) The city may require performance standards or conditions to minimize the impact of noise and lighting and to minimize the likelihood of the recreational activity spilling over onto adjacent property or rights-of-way. The conditions may include, but are not limited to, limiting hours of use, restricting the location of outdoor courts or rinks, and requiring the installation of fencing and/or screening.
- (2) Sport courts or ice rinks shall not be located in the front yard or in a side

yard adjacent to a right-of-way of a residential property, and shall abide by structure setback requirements.

(v) *Indoor recreation and indoor athletic facility.*

- (1) Entrances for public access as well as other outdoor areas where patrons may congregate shall be no less than 200 feet from residential districts.
- (2) Provisions for noise reduction shall be identified and implemented based on the type of use.

(w) *Non-production and light industrial, MU-BP district.* Non-production industrial use shall be allowed as a principal use, and may include wholesale and off-premises sales, provided that:

- (1) The structure containing the use shall be no less than 200 feet from residential land uses;
- (2) The use shall be served by a street of sufficient capacity to handle the traffic the use will generate;
- (3) The use shall include a retail or office component equal to at least 25 percent of the floor area of the use;
- (4) An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the area;
- (5) The owner or operator shall submit equipment specifications to the city. The city may require the owner or operator to implement vibration and noise reduction measures as part of their business.

(x) *Outdoor dining accessory to food services.*

- (1) Tables shall not block a public sidewalk or other walkway needed for pedestrian circulation. A minimum of five feet of sidewalk or walkway must remain open.
- (2) All outdoor dining space shall be at least 200 feet from any residential property.
- (3) The outdoor dining area shall be directly adjacent to the principal structure and shall be clearly delineated by fencing and decorative landscaping.
- (4) Outdoor loudspeakers and lighting shall be designed to limit impacts on adjacent property or rights-of-way.

(y) *Medical facilities.* Medical facility structures, primary vehicular access points, and landing pads for helicopters involved in emergency transport and rescue

operations shall be located at least 1,500 feet from a residential property.

(z) *Outdoor storage yard/facility.*

(1) Outdoor storage of display of goods used in conjunction with and on the same site as the permitted or conditional use:

- a. The display area shall be directly adjacent to a structure or under a permanent canopy.
- b. The display area shall not exceed two percent of the area of the footprint of the principal building or 400 square feet, whichever is less.
- c. Goods in the display area shall be neatly organized and stored.
- d. The display area shall not occupy parking/loading or landscaping areas, and shall not interfere with fire and safety access to the building.

(2) Outdoor storage of materials and inventory:

- a. Outdoor storage shall not be permitted on parcels less than three acres in size.
- b. The area of storage shall not exceed an area equal to ten percent of the gross area of the lot or 20 percent of the footprint area of the principal structure, whichever is less.
- c. The area of storage shall not be located within the front yard or a side yard adjacent to a right-of-way.
- d. The outdoor storage of damaged or inoperable motor vehicles or equipment is prohibited.

(Code 2007, § 154.513; Ord. No. 08-222, § 1(154.513), 2-19-2019)

ARTICLE XV COMMERCIAL DISTRICTS

[105.12.910 Purpose And District Descriptions](#)

[105.12.920 Permitted, Conditional And Interim Uses](#)

[105.12.930 Lot Dimensions And Building Bulk Requirements](#)

[105.12.940 General Site Design Considerations, Commercial Districts](#)

[105.12.950 Development Standards For Specific Uses](#)

[105.12.960 Commercial District Design Standards](#)

105.12.910 Purpose And District Descriptions

The commercial districts are established to provide a range of goods and services for city residents within the city's existing commercial corridors and districts, to promote

employment opportunities and the adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas. In all the commercial districts, consideration should be given to building and site design to provide for efficient and well-integrated use of land, ensure compatibility with adjacent residential districts, to control traffic and improve the pedestrian environment. The commercial districts are as follows:

- (a) *LC Neighborhood Office/Limited Commercial District.* The purpose of the LC district is to provide for the establishment of limited scale neighborhood commercial centers that offer basic convenience type goods and services to the immediately surrounding residential neighborhoods in areas that are not planned for public sanitary sewer services. Office uses and other business uses are allowable on a limited scale. It is the intent of this district to promote a high quality of business design and development that produces a positive visual image and minimizes adverse effects from traffic congestion, noise, odor, glare, and similar impacts.
- (b) *CC Convenience Commercial District.* The CC district is established to provide for smaller scale commercial development and attractive neighborhood shopping centers that are compatible with surrounding residential and business park development, ideally located at the intersection of two or more collector streets or at the intersection of an arterial and collector street. Convenience goods and services are those which are purchased frequently, i.e., at least weekly; for which comparison buying is not required; and which can be sustained in a limited trade area. Such uses include convenience markets, personal services and repair shops. A limited number of other uses, including, but not limited to, restaurants, gas stations, medical centers, transit-related park-and-ride lots, and facilities with drive-up windows, are also allowed.
- (c) *C Commercial District.* The purpose of the C district is to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region and are located in areas that are well served by collector or arterial street facilities outside the village area. It is intended to allow the widest range of commercial uses, especially those that are oriented towards the traveling public or that need large sites with highway access and visibility. Residential uses may be appropriate as part of a mixed-use commercial development, with unit densities being determined by either the identified range within the comprehensive plan or to a level deemed appropriate as part of a planned unit development.
- (d) *BP Business Park/Light Manufacturing District.* The purpose of the BP district is to provide areas for attractive, high quality business park development primarily for office, high quality manufacturing and assembly, and non-retail uses in developments which provide a harmonious transition to residential development and neighborhoods by:
 - (1) Conducting all business activities and essentially all storage inside

- buildings;
- (2) Consisting of high quality and attractive buildings which blend in with the environment;
- (3) Providing open space, quality landscaping and berming;
- (4) Including berming and buffering of parking, loading docks and other similar functions;
- (5) Protecting and enhancing the natural environment; and
- (6) Providing users with an attractive working environment that is unique in the eastern metropolitan area with immediate access to I-94.

(Code 2007, § 154.550; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-245, § 3, 2021)

105.12.920 Permitted, Conditional And Interim Uses

Table 12-1 lists all permitted and conditional uses allowed in the commercial districts. "P" indicates a permitted use, "C" a conditional use and "I" an interim use. Uses not so indicated shall be considered prohibited. Cross-references, listed in the table under "Standards," indicate the location within this chapter of specific development standards that apply to the listed use.

Combinations of uses. The following use types may be combined on a single parcel:

- (a) Principal and accessory uses.
- (b) Other permitted or conditional uses allowed within the district may be combined on a single parcel, provided that a unified and integrated site plan is approved. The entire development must be approved as a conditional use.
- (c) A mixed-use building that combines permitted or conditionally permitted residential, service, retail and civic uses may be developed meeting the form standards of this subchapter. Office or studio uses on upper stories are encouraged.

Table 12-1: Permitted, Conditional and Interim Uses, Commercial Districts

	<i>L</i> <i>C</i>	<i>C</i> <i>C</i>	<i>C</i>	<i>B</i> <i>P</i>	<i>Standard</i>
Residential Uses:					
Household Living:					
Single-family attached dwelling	-	-	C	-	LEC 105.12.950(a)
Multifamily dwelling	-	-	C	-	LEC 105.12.950(b)

Live-work unit	C	C	C	-	LEC 105.12.110(b) (1)
Group Living:					
Semi-transient accommodations	-	-	C	-	LEC 105.12.500(d)
Congregate housing	-	-	C	-	LEC 105.12.500(c)
Colleges and universities	-	-	C	C	LEC 105.12.110(b) (2), LEC 105.12.510(a)
Community service	-	C	C	C	LEC 105.12.110(b) (2)
Day care center	C	C	C	C	LEC 105.12.110(b) (2)
Schools, public and private	-	-	C	C	LEC 105.12.110(b) (2), LEC 105.12.510(a)
Local transit	-	-	-	C	LEC 105.12.950(o)
Public assembly	-	-	C	C	LEC 105.12.110(b) (2)
Religious institutions	-	-	C	-	LEC 105.12.110(b) (2)
Services:					
Business services	P	P	P	P	LEC 105.12.110(b) (3)
Business center	P	P	P	P	LEC 105.12.110(b) (3)
Offices	P	P	P	P	LEC 105.12.110(b) (3)
Commercial kennel	-	-	C	-	
Communication services	C	C	P	P	LEC 105.12.110(b) (3)
Educational services	P	P	P	P	LEC 105.12.110(b) (3), LEC 105.12.510(a)
Financial institution	P	P	P	P	LEC 105.12.110(b) (3)
Funeral home	-	C	P	-	LEC 105.12.110(b) (3)

Lodging	-	-	P	C *	LEC 105.12.110(b)(3), 154.302(d), *LEC 105.12.950(c)
Medical facility	-	-	C	C	LEC 105.12.110(b)(3), LEC 105.12.510(b)
Membership organization	P	P	P	-	LEC 105.12.110(b)(3)
Nursing and personal care	C	C	C	-	LEC 105.12.110(b)(3), LEC 105.12.510(c)
Personal services	P	P	P	-	LEC 105.12.110(b)(3)
Services:					
Repair and maintenance shop	-	-	P	-	LEC 105.12.950(d)
Self-service storage	-	-	-	-	
Trade shop	-	-	P	-	LEC 105.12.950(e)
Transportation services	-	-	-	C	LEC 105.12.110(b)(3)
Veterinary services	P	P	P	C	LEC 105.12.950(f)
Food Services:					
Standard restaurant	-	P	P	C *	LEC 105.12.110(b)(4), LEC 105.12.950(l)
Drive-in restaurant	-	C	C	-	LEC 105.12.520(a)
Drinking and entertainment	-	C	P	-	LEC 105.12.520(b)
Fast food restaurant	-	P	P	C *	*LEC 105.12.950(m)
Sales of Merchandise:					
General retail sales ¹	C	P	P	C *	LEC 105.12.950(n)
Building supplies sales	-	-	C	-	
Warehouse club sales	-	-	C	-	
Furniture and appliance sales	-	-	P	-	

Grocery, supermarket	-	-	P	-	
Liquor store	-	P	P	-	
Garden center	-	-	P	-	LEC 105.12.950(g)
Neighborhood convenience store	-	P	P	-	
Shopping center	-	P	P	-	
Sales of Merchandise:					
Wholesaling	-	-	P	-	
Automotive/Vehicular Uses:					
Automobile maintenance service	-	-	C	-	LEC 105.12.950(h)
Automobile parts/supply	-	-	P	-	LEC 105.12.950(h)
Car wash	-	-	C	-	LEC 105.12.110(b) (6)
Commercial vehicle repair	-	-	-	-	LEC 105.12.950(h)
Gasoline station	-	C	C	-	LEC 105.12.530(b)
Parking facility	-	-	C *	C	*LEC 105.12.950(i)
Sales and storage lots	-	-	C	-	LEC 105.12.530(c)
Outdoor Recreation:					
Campgrounds and trailering	-	-	-	-	
Golf course	-	-	-	-	
Marina	-	-	-	-	
Outdoor entertainment	-	-	-	-	
Outdoor recreation facility	-	-	C	-	LEC 105.12.550(c)
Parks and open areas	P	P	P	P	LEC 105.12.110(b) (7)
Restricted recreation	-	-	-	-	
Indoor Recreation/Entertainment:					
Adult establishment	-	-	-	C	LEC 11.16
Indoor athletic facility	-	C	P	C	LEC 105.12.560(a)
Indoor Recreation/Entertainment:					
Indoor recreation	-	-	C	-	LEC 105.12.560(a)

Agricultural and Related Uses:					
Agricultural sales business	-	I	P	-	LEC 105.12.110(b)(9)
Agricultural services	-	-	C	-	LEC 105.12.110(b)(9)
Agricultural support	-	-	C	-	LEC 105.12.110(b)(9)
Greenhouses, non-retail	-	-	-	-	LEC 105.12.110(b)(9)
Wayside stand	P	P	P	P	LEC 105.12.110(b)(9)
Industrial and Extractive Uses:					
Heavy industrial	-	-	-	-	
Landfill	-	-	-	-	
Light industrial	-	-	-	C	LEC 105.12.110(b)(10)
Non-production industrial	-	-	-	C	LEC 105.12.950(j)
Motor freight and warehousing	-	-	-	C	LEC 105.12.110(b)(10)
Research and testing	-	-	-	C	LEC 105.12.110(b)(10)
Resource extraction	-	-	-	-	LEC 105.12.110(b)(10)
Salvage/recyclable center	-	-	-	-	LEC 105.12.110(b)(10)
Transportation and Communications:					
Broadcasting and communications	C	C	C	C	LEC 105.12.110(b)(11), LEC 105.12.220
Accessory Uses:					
Bed and breakfast	-	-	P	-	LEC 105.04.220(a)
Drive-through facility	-	C	C	-	LEC 105.12.520(a)
Family day care	-	-	-	-	LEC 105.12.110(b)(12)
Group family day care	-	-	-	-	LEC 105.12.110(b)(12)

Home occupation	-	-	-	-	LEC 105.12.110(b) (12)
Parking facility	C	C	P *	P	*LEC 105.12.950(i)
Outdoor storage	-	-	C	-	
Outdoor display	-	-	C	-	
Solar equipment	P	P	P	P	LEC 105.04.220(c)
Other structures typically incidental and clearly subordinate to permitted use	P	P	P	P	

¹ General Retail Sales shall include all of the subcategories identified in the LEC 105.12.110(b)(5) under Retail Trade with the exception of those subcategories listed separately in Table 12-1 above.

(Code 2007, § 154.551; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-116, 3-3-2015; Ord. No. 08-197, § 6(1), 2-7-2018; Ord. No. 08-199, 2-7-2018; Ord. No. 08-213, § 1, 7-3-2018; Ord. No. 08-215, § 1, 7-17-2018; Ord. No. 08-249, § 2, 2021)

105.12.930 Lot Dimensions And Building Bulk Requirements

Lot area and setback requirements shall be as specified in Table 12-2 Lot Dimension and Setback Requirements, Commercial Districts.

Table 12-2: Lot Dimension and Setback Requirements, Commercial Districts

	<i>LC</i>	<i>CC</i>	<i>C</i>	<i>BP</i>
Minimum lot area (square feet)	3.5 acres	12,000	20,000	2 acres
Minimum lot width (feet)	300	75	100	200
Minimum lot depth (feet)	400	-	-	-
Maximum height (feet/stories) ^d	35	35	45	50 ^a
Maximum impervious coverage	40 percent	60 percent	75 percent	75 percent
Building Setback Requirements (feet): ^d				
Front yard	100	30	30	50
Interior side yard	50	20	10	30
Corner side yard	100	25 ^c	25 ^c	30
Rear yard	50	30 ^b	30 ^b	30

Residential zones	150	50	50	150
Parking Setback Requirements (feet):				
Front yard	50	15	15	30
Interior side yard	50	10	10	15
Corner side yard	50	15	15	30
Rear yard	50	10	10	15
Residential zones	100	35	35	100
Minimum building floor size (square feet)	4,000	-	-	5,000
Notes to Table 12-2:				
a. Buildings higher than 50 feet may be allowed through a conditional use permit and would be subject to a separate technical and planning evaluation.				
b. Accessory buildings must be set back ten feet from property lines.				
c. Corner properties. The side facade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.				
d. Ground-mounted wind generators may exceed the allowable height restriction designated in all commercial districts and are subject to different setback requirements as identified in LEC 105.12.570.				

(Code 2007, § 154.552; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-199, 2-7-2018)

105.12.940 General Site Design Considerations, Commercial Districts

Development of land within the commercial districts shall follow established standards for traffic circulation, landscape design, and other considerations as specified in LEC 105.12, arts. VII, VIII, and IX.

(a) Circulation.

- (1) Internal connections shall be provided between parking areas on adjacent properties wherever feasible.
- (2) The number and width of curb cuts shall be minimized. To promote pedestrian circulation, existing continuous curb cuts shall be reduced to widths necessary for vehicular traffic, and unnecessary or abandoned curb cuts shall be removed as parcels are developed.

(b) Fencing and screening. Fencing and screening walls visible from the public

right-of-way shall be constructed of materials compatible with the principal structure.

- (c) *Lighting design.* Lighting shall be integrated into the exterior design of new or renovated structures to create a greater sense of activity, security, and interest to the pedestrian. All lighting shall be installed in conformance to LEC 105.04.050 et seq.
- (d) *Exterior storage.* Exterior materials storage must be screened from view from adjacent public streets and adjacent residential properties, by a wing of the principal structure or a screen wall constructed of the same materials as the principal structure. Height of the structure or screen wall must be sufficient to completely conceal the stored materials from view at eye level (measured at six feet above ground level) on the adjacent street or property.

(Code 2007, § 154.553; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-152, 10-1-2016)

105.12.950 Development Standards For Specific Uses

The following standards apply to specific uses allowed within the commercial districts. Other specific use standards are located in LEC 105.12, art. IX:

- (a) *Single-family attached dwellings, C district.* Limited to areas that are designated as mixed-use in the comprehensive land use plan.
- (b) *Multifamily dwelling units, C district.* Dwelling units (both condominium and rental) are allowed as follows:
 - (1) Within those areas designated as mixed-use in the comprehensive plan; and
 - (2) On the upper floors or rear or side ground floors of a mixed-use building approved as part of a planned unit development.
- (c) *Lodging, BP district.* Must incorporate a full-service restaurant and rooms accessible only through interior corridors and be subordinate to a main business complex.
- (d) *Repair and maintenance shop.* No outdoor storage is permitted.
- (e) *Trade shop.* Exterior materials storage must be totally screened from view from adjacent public streets and adjacent residential properties, by a wall of the principal structure or a screen wall constructed of the same materials as the principal structure.
- (f) *Veterinary services.* All activities must be conducted within an enclosed building. Crematoriums are not allowed.
- (g) *Garden center.*

- (1) The storage or display of any materials or products shall meet all primary building setback requirements of a structure, and shall be maintained in an orderly manner. Screening along the boundaries of adjacent residential properties may be required, meeting the standards of LEC 105.12.950(g).
 - (2) All loading and parking shall be provided off-street.
 - (3) The storage of any soil, fertilizer or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses.
- (h) *Automobile maintenance service and automobile parts/supply.*
 - (1) All vehicle repairs shall be conducted in a completely enclosed building.
 - (2) The storage or display of inoperable or unlicensed vehicles or other equipment shall meet all setback requirements of a primary structure, and shall be totally screened from view from adjacent public streets and adjacent residential properties.
- (i) *Parking facility, C district.* Structured parking is permitted as a ground floor use within a mixed-use building, provided that it is located on side or rear facades, not facing the primary abutting street. The primary street-facing facade shall be designed for retail, office or residential use.
- (j) *Non-production industrial, BP district.* Non-production industrial use shall be allowed as a principal use, and may include wholesale and off-premises sales, provided that:
 - (1) The use is served by a street of sufficient capacity to handle the traffic the use will generate;
 - (2) The use includes a retail or office component equal to at least 25 percent of the floor area of the use; and
 - (3) An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the area.
- (k) *Outdoor dining accessory to food services.* Outdoor dining is allowed as an accessory use in the commercial districts, provided that tables do not block a public sidewalk or other walkway needed for pedestrian circulation. A minimum of five feet of sidewalk or walkway must remain open.
- (l) *Standard restaurant, BP district.* Must be incorporated as part of a larger business center or lodging use.
- (m) *Fast food restaurant, BP district.* Must be incorporated as part of a larger business center or lodging use.

- (n) *Retail trade, BP district.* Limited to uses clearly incidental and accessory to a permitted or conditionally permitted principal use of the land. The compounding, dispensing or sale of drugs, prescription items, patient or proprietary medicine, sick room supplies, prosthetic devices or items relating to any of the permitted or conditionally permitted uses is only allowed when conducted in the building occupied primarily by medical facilities or offices.
- (o) *Local transit, BP district.* School bus terminals shall be allowed as a conditional principal use within the business park zoning district, provided that:
- (1) The use shall be limited to a school district transportation center, owned by a public school district, serving as a bus terminal for buses which transport passengers to and from schools or between school programs and community residences.
 - (2) The property on which the use is located must be located within one-half mile of property owned by a public school district for an active school or school administration building.
 - (3) Must be on property of at least ten acres in size or more.
 - (4) Must be sufficiently screened, as determined by the city, from adjacent residential properties through techniques such as berming and landscaping.
 - (5) Accessory uses to bus terminals may include an office and routine maintenance of school buses, including, but not limited to, washing and fueling.

(Code 2007, § 154.554; Ord. No. 2012-062, 9-18-2012; Ord. No. 08-152, 10-1-2016; Ord. No. 08-215, § 2, 7-17-2018)

105.12.960 Commercial District Design Standards

Review of design. For certain development activity as specified in the Lake Elmo Design Guidelines and Standards Manual, design review is required as part of the approval process for a permit or certificate under this section. All projects subject to design review shall be reviewed for conformance with the Lake Elmo Design Guidelines and Standards Manual and shall follow the review procedures specified in LEC 105.12.830.

(Code 2007, § 154.555; Ord. No. 08-095, 11-19-2013)

ARTICLE XVI PUBLIC AND SEMI-PUBLIC DISTRICTS

[105.12.970 PF Public And Quasi-Public Open Space](#)

105.12.970 PF Public And Quasi-Public Open Space

- (a) *Purpose and intent.* The purpose and intent of the PF zoning district is to allow uses and structures that are incidental and subordinate to the overall land uses permitted in the city. While allowing certain uses within the city, general performance standards have been established. This is intended to ensure maintenance and preservation of the established rural character of the city by preserving agricultural land, woodlands, corridors, and other significant natural features, and provide buffering between PF and residential or other uses.
- (b) *Uses allowed by conditional use permit.* In addition to the specific standards and criteria which may be cited below for respective uses, each application shall be evaluated based on the standards and criteria set forth in LEC 105.12.290. Uses allowed herein that are in existence within the city at the effective date of the ordinance from which this chapter is derived may continue the use as a permitted use. The following uses are conditionally permitted in the PF zoning district:

(1) Cemeteries, provided that:

- a. Direct access is provided to a public street classified by the comprehensive plan as major collector or arterial; and
- b. No mausoleum, crematorium, or other structure is permitted, except a one-story tool or storage shed of 160 square feet floor maximum floor area.

(2) Religious institutions, provided that:

- a. Direct access is provided to a public street classified by the comprehensive plan as major collector or arterial;
- b. No use may exceed 235 gallons wastewater generation per day per net acre of land;
- c. No on-site sewer system shall be designed to handle more than 5,000 gallons per day;
- d. Exterior athletic fields shall not include spectator seating, public address facilities or lighting; and
- e. No freestanding broadcast or telecast antennas are permitted. No broadcast dish or antenna shall extend more than six feet above or beyond the principal structure.

(3) Facilities for local, county and state government, provided that:

- a. Direct access is provided to a public street classified by the comprehensive plan as major collector or arterial;
- b. The use and location is consistent with the community facilities element of the comprehensive plan; and

- c. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive.

(4) Libraries and museums (public and private), provided that:

- a. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive;
- b. For private facilities, a plan is provided, together with a declaration and covenants to run with the title to the land, that prescribes perpetual maintenance, insurance and ownership responsibilities for all facilities and land area; and
- c. Direct access is provided to a public street classified by the comprehensive plan as a major collector or arterial.

(5) Public and private schools (except licensed day care), provided that:

- a. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive; and
- b. Direct access is provided to a public street classified by the comprehensive plan as a major collector or arterial.

(6) Historic sites and interpretive centers, provided that:

- a. Direct access is provided to a public street classified by the comprehensive plan as a major collector or arterial; and
- b. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive.

(c) *Uses allowed by interim use permit.* The keeping of horses in conjunction with churches, provided that:

- (1) The keeping of horses does not constitute a feedlot per Minn. Rules.
- (2) The property is directly adjacent to only Agricultural (A) and Rural Residential (RR) zoned properties that are not developed as open space preservation subdivisions. Roadways shall be considered an adequate buffer.
- (3) Evidence is provided to show adherence to all livestock and horse regulations in the city Code.

(d) *Accessory uses and structures.* Uses and structures, which are clearly incidental and subordinate to the principal permitted uses and structures. All exterior materials of accessory structures must be the same as those of the principal structure.

(e) *Minimum district requirements.*

(1) District requirements in PF Zoning District.

<i>District Requirements in PF Zoning District</i>		
	<i>With Structure</i>	<i>Without Structure</i>
Maximum parcel area	20	N/A
Lot width -- minimum:	100 feet	N/A
Lot depth -- minimum:	150 feet	N/A
Primary Structure Setback from Property Line:		
Front -- minimum:	50 feet	N/A
Side (interior) -- minimum:	50 feet	N/A
Side (corner) -- minimum:	50 feet	N/A
Rear -- minimum:	50 feet	N/A
Accessory Structure Setback from Property Line:		
Front -- minimum:	50 feet	N/A
Side (interior) -- minimum:	50 feet	N/A
Side (corner) -- minimum:	50 feet	N/A
Rear -- minimum:	50 feet	N/A
Principal structure height -- maximum	50 feet -- structure side walls not to exceed 3.5 feet	N/A
Accessory structure height -- maximum	35 feet -- structure side walls not to exceed 18 feet	N/A
Unoccupied structure above the highest point of the roof	25 feet	-
Septic drainfield regulations	See LEC 5.08.020 et seq.	See LEC 5.08.020 et seq.
		See LEC

Signage	See LEC 105.12.430	105.12.430
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- a. Essential services shall be exempt from the minimum district requirements of LEC 105.12.970(e)(1). Essential services with buildings shall maintain a minimum ten-foot setback from property lines.
- b. Essential services that do not meet the minimum district requirements of LEC 105.12.970(e)(1), shall have increased four season screening and fencing.

(2) Maximum lot area, buffer width and impervious coverage shall be in compliance with the following table:

<i>Maximum Parcel Area</i>	<i>Buffer Width (feet)</i>	<i>Maximum Impervious Site Coverage</i>
0--5 acres	50	39.5 percent
5.1--10 acres	100	38 percent
10.1--20 acres	150	35 percent

- a. Essential services shall be exempt from the buffering requirements of the PF zoning district.

(f) *Performance standards.*

(1) Generally.

a. *Architectural standards.*

1. It is the purpose and intent of the city, by the adoption of the performance standards of this subsection (f), to ensure commercial buildings constructed within the city are of a high quality of exterior appearance, consistent with the terms of Nonresidential Development Policy #5 of the 2000--2010 Lake Elmo Comprehensive Plan. It is the finding of the city that a limited selection of primary exterior surfacing materials meets this standard of quality.
2. It is the further finding of the city that several specific exterior surfacing materials are appropriate, and of sufficient quality, to be utilized only as accent materials in varying percentages. The variations of percentage of specific accent materials relates to a finding by the city as

to the relative quality and rural character of those respective accent materials.

b. *Architectural and site plan submittals.* New building proposals shall include architectural and site plans prepared by registered architect and shall show the following as a minimum:

1. Elevations of all sides of the buildings;
2. Type and color of exterior building materials;
3. Typical general floor plans;
4. Dimensions of all structures; and
5. Location of trash containers, heating, cooling and ventilation equipment and systems.

c. *Applicability structure additions and renovation.*

1. Additions to existing structures resulting in an increase of gross floor area of the structure of less than 100 percent; and/or installation of replacement exterior surfacing any portion of an existing structure shall be exempt from the standards of this subsection where it is found that the new or replacement exterior surfacing proposed is identical to that of the existing structure.
2. Where additions to an existing structure result in an increase in the gross floor area of the existing structure of 100 percent or greater, the entire structure (existing structure and structure addition) shall be subject to the standard of this subsection.

d. *Performance standard--Primary exterior surfacing.*

1. The primary exterior surfacing of structures shall be limited to natural brick, stone, or glass. Artificial or thin veneer brick or stone less than nominal four inches thick shall not qualify as complying with this performance standard.
2. Primary exterior surface shall be defined as not less than 70 percent of the sum of the area of all exterior walls of a structure nominally perpendicular to the ground. All parapet or mansard surfaces extending above the ceiling height of the structure shall be considered exterior surface for the purposes of this section. Windows and glass doors shall be considered a primary surface, but the sum area of this glass shall be deducted from the wall area for the

purposes of the 70 percent primary/30 percent accent formulas of this section. Doors of any type of material, except glass, shall not be considered a primary exterior surface.

3. Each wall of the structure shall be calculated separately and, individually comply with the 70/30 formula.

e. *Performance standard--Exterior surfacing accents.* Not more than 30 percent of the exterior wall surfacing, as defined by subsection (f)(1)d of this section may be of the following listed accent materials, but no single accent material, except natural wood, may comprise more than 20 percent of the total of all accent materials; and no combustible materials shall be used:

1. Cedar, redwood, wood siding;
2. Cement fiber board;
3. Standing seam metal;
4. Architectural metal;
5. Stucco;
6. Poured in place concrete (excluding tilt-up panels);
7. Architectural metal panels; and
8. Porcelain or ceramic tile.

f. *Performance standard--Accessory structures.* All accessory structures shall comply with the exterior surfacing requirements specified by this section.

g. *Performance standard--HVAC units and exterior appurtenances.* All exterior equipment, HVAC and trash/recycling and dock areas shall be screened from view of the public with the primary exterior materials used on the principal structure.

h. *Performance standard--Visible roofing materials.* Any roofing materials that are visible from ground level shall be standing seam metal, fire-treated cedar shakes, ceramic tile, clay tile, concrete, or slate.

i. *Applicability--New construction.* The standards of this subsection (f)(1)d shall be applicable to all structures and buildings constructed in the city, on and after the effective date of the ordinance from which this section is derived. The performance standards of this subchapter shall not be in any manner minimized

by subsequent planned unit development plans or agreement.

(2) *Parking.* Each site shall be provided with off-street automobile parking as follows:

- a. Religious institutions: One space for each permanent and temporary four seats based on the design capacity of the main assembly hall. Facilities, as may be provided in conjunction with such buildings and uses, shall be subject to additional requirements that are imposed by the city Code.
- b. Facilities for local, county and state government: One space for each 250 square feet of office area. Facilities, as may be provided in conjunction with such buildings and uses, shall be subject to additional requirements that are imposed by the city Code.
- c. School, elementary and junior high (public or private): Three spaces for each classroom.
- d. School, high school (public or private): One space for each two students.
- e. Historic sites and interpretive centers, libraries, and museums (public or private): One space for each 300 square feet of floor area.

(3) *Landscaping.* All yard area shall either be landscaped green areas or open and left in a natural state. Yards to be landscaped shall be landscaped attractively with lawn, trees, and shrubs in accordance with a plan prepared by a landscape architect. Areas left in a natural state shall be kept free of litter, debris, and noxious weeds. Yards adjoining any residential zone shall contain a buffer area consisting of berming, landscaping, and/or fencing for the purpose of screening noise, sight, sound, and glare.

(4) *Buffering.* Where areas abut residential districts, a buffer area and setback in compliance with this subsection (f)(4) is required. The buffer requirement shall be applicable to any interior parcel property line, and not applied to property lines abutting improved public streets. No public/private streets or driveways, or off-street parking facilities may be located in the buffer area. The buffer area shall be completely defined and designed, and approved by the city prior to all final city approvals for construction on site. Prior to the issuance of a building permit or commencement of any improvements on site, the owner shall provide the city with a financial security for a minimum of 24 months unless a shorter term of security is specifically approved by the city council, approved by the city attorney, to ensure construction of the buffer area. All landscaping shall comply with LEC 105.12.480.

- (5) *Signage*. All signs shall comply with LEC 105.12.430.
- (6) *Lighting*. All lighting shall comply with LEC 105.04.050 through LEC 105.04.070.
- (7) *Traffic*. All applications for a building permit responsive to the requirements of this section shall include a detailed report, certified by a registered engineer, demonstrating the extent of and quantitative impact on public roads from forecasted traffic of the use, based on ITE average daily and peak hour/event traffic. Forecasted traffic generation within the design capacity of an impacted public street, as determined by the city engineer, shall be the primary determinant for approval of the site plan.
- (8) *Noise*. All uses in the PF zoning district shall comply with the city's noise standards found in LEC 13.04.070 through LEC 13.04.100.

(Code 2007, § 154.600; Ord. No. 97-62, 9-5-2000; Ord. No. 97-168, 5-2-2006; Ord. No. 97-172, 6-20-2006; Ord. No. 97-192, 6-19-2007; Ord. No. 97-204, 12-11-2007; Ord. No. 08-130, 1-19-2016; Ord. No. 08-245, §§ 4, 5, 2021)

ARTICLE XVII OPEN SPACE PLANNED UNIT DEVELOPMENTS

[105.12.980 Purpose](#)

[105.12.990 Intent](#)

[105.12.1000 Definitions](#)

[105.12.1010 Initiation Of Proceedings](#)

[105.12.1020 Reflection On The Official Zoning Map](#)

[105.12.1030 Prerequisites For Open Space PUDs](#)

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[105.12.1100 PUD Cancellation](#)

[105.12.1110 Administration](#)

105.12.980 Purpose

The purpose of open space planned unit developments is to provide greater development flexibility within rural portions of the community while maintaining the rural character by preserving agricultural land, woodlands, wildlife or natural corridors, pollinator and wildlife habitat, and other significant natural features consistent with the goals and objectives of the city's comprehensive plan. The city reserves the right to deny establishment of an open space PUD overlay district and direct a developer to re-apply under standard zoning provisions if it is determined that proposed benefits of the open

space PUD do not justify the requested flexibilities.

(Code 2007, § 154.650; Ord. No. 97-79, 5-1-2001; Ord. No. 08-152, 10-4-2016)

105.12.990 Intent

It is the intent of the city that open space planned unit developments will offer needed development flexibility within the agricultural, rural residential, and rural estate zoning districts to provide for:

- (a) A variety of lot configurations and housing styles that may not otherwise exist within the city's rural areas;
- (b) An avenue to provide a development density equal to or greater than what could be achieved via underlying zoning;
- (c) A reduction in the costs to construct and maintain public facilities and infrastructure in a rural setting;
- (d) Protected open space to enhance and preserve the natural character of the community;
- (e) The creation of distinct neighborhoods that are interconnected within rural areas;
- (f) To preserve large contiguous open spaces.

(Code 2007, § 154.651; Ord. No. 97-79, 5-1-2001; Ord. No. 08-152, 10-4-2016)

105.12.1000 Definitions

Unless specifically defined in LEC 105.12, art. II, common definitions, words, and phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage throughout this Code and as may be found in LEC 1.08.

(Code 2007, § 154.652; Ord. No. 97-79, 5-1-2001; Ord. No. 08-152, 10-4-2016)

105.12.1010 Initiation Of Proceedings

The owner of property on which an open space PUD is proposed shall file the applicable application for a PUD by paying the fees set forth in LEC 1.12.010 and submitting a completed application form and supporting documents as set forth on the application form and within this section. Complete applications shall be reviewed by city commissions as deemed necessary by the director of planning and be acted upon by the city council. If a proposed open space PUD is denied, any subsequent application for a substantially similar PUD within one year of the date of denial shall fully address all findings which supported the denial prior to being accepted as complete.

(Code 2007, § 154.653; Ord. No. 97-79, 5-1-2001; Ord. No. 08-152, 10-4-2016; Ord. No.

105.12.1020 Reflection On The Official Zoning Map

- (a) PUD provisions provide an optional method of regulating land use which permits flexibility from standard regulating provisions. Establishment of a PUD shall require adoption of an ordinance creating an overlay zoning district atop the boundaries of the development area. For each PUD district, a specific ordinance shall be adopted establishing all rules which shall supersede underlying zoning. Issues not specifically addressed by the PUD overlay district shall be governed by the underlying zoning district regulations.
- (b) All open space preservation developments approved prior to October 4, 2016 shall be allowed to continue per the original conditions of approval.

(Code 2007, § 154.654; Ord. No. 08-152, 10-4-2016)

105.12.1030 Prerequisites For Open Space PUDs

- (a) Only land zoned as agricultural, rural residential, or rural estate may be considered for establishment of an open space planned unit development.
- (b) The minimum land area for establishment of an open space planned unit development is a nominal contiguous 20 acres.
- (c) Establishment of an open space planned unit development will be considered only for areas of land in single ownership or control. Alternatively, multiple party ownership, in the sole discretion of the city, is acceptable when legally sufficient written consent from all persons and entities with ownership interest is provided at the time of application.

(Code 2007, § 154.655; Ord. No. 08-152, 10-4-2016)

105.12.1040 Uses Within Open Space PUDs

- (a) *Primary uses.*
 - (1) *Permitted.*
 - a. Single-family, detached;
 - b. Preserved open space;
 - c. Conservation easements;
 - d. Agriculture;
 - e. Suburban farms;

- f. Private stables;
- g. Single-family, attached;
- h. Townhouses (no more than 25 percent in any development);
- i. Wayside stand; and
- j. Public parks and trails.

(2) *Conditionally permitted.* None.

(3) *Interim permitted.* None.

(b) *Accessory uses.*

(1) *Permitted.* Uses deemed by the director of planning to be typically accessory to an established permitted use on the property as listed in subsection (a)(1) of this section.

(2) *Conditionally permitted.* None.

(3) *Interim permitted.* None.

(c) *Prohibited uses.* All other uses not listed in subsection (a) or (b) of this section are hereby prohibited.

(d) *Use restrictions and allowances.* The final PUD overlay district ordinance for an open space PUD may include specific provisions governing uses which supersede underlying zoning and the general PUD regulations herein.

(Code 2007, § 154.656; Ord. No. 97-79, 5-1-2001; Ord. No. 08-152, 10-4-2016; Ord. No. 08-239, § 1(154.656), 2020)

105.12.1050 Open Space PUD Design

Open space PUDs shall comply with all of the following minimum design standards unless modifications are authorized for consideration by the city council via a super-majority vote.

- (a) *Density.* The maximum dwelling unit density within an open space planned unit development shall be 18 units per 40 acres of buildable land (0.45 dwelling units/acre) on the undeveloped parcel; however, the total number of dwelling units shall not exceed the density limitations contained in the comprehensive plan for open space preservation development.
- (b) *Lot design.* Lot locations and configurations within open space planned unit developments shall be derived utilizing the following methodology. An applicant must be able to demonstrate how these steps resulted in the plan being

proposed.

- (1) *Soils analysis conducted.* A certified septic designer or soils scientist shall complete a review of the soils on the site, and categorize all areas as highly suitable for septic systems, moderately suitable for septic systems, or poorly suited for septic systems.
- (2) *Septic design identification.* Based on the soils analysis, an applicant must identify whether the proposed development will be serviced by individual septic tanks and drain fields, or via a system of individual septic tanks which utilize one or more communal drain fields.
 - a. If individual septic tanks and drain fields can be supported by the available soils and is the chosen methodology to serve the development, all proposed lots must be able to provide primary and secondary drain field sites on each lot (outside of drainage and utility easements), and must meet the minimum lot size standards outlined herein.
 - b. If individual septic tanks which utilize a communal drain field (or fields) is the chosen methodology to serve the development, then the locations for communal drain fields shall be identified within the areas deemed the most suitable on the site for supporting septic utilities according to the soils analysis. All such areas shall be clearly denoted on provided plan sets.
- (3) *Identification of required buffers.* No build zones from each property boundary shall be derived as follows:
 - a. A 200-foot buffer from all adjacent property lines that abut an existing residential development or a parcel of land not eligible for future development as an open space planned unit development due to insufficient parcel area.
 - b. A 100-foot buffer from all adjacent property lines that abut land that is eligible for future development as an open space planned unit development.
 - c. If the development site is adjacent to an existing or approved OP development, the required buffer shall be equivalent to the buffer that was required of the adjacent development (See LEC 105.12.170(b)).
- (4) *Identification of preferred building pad locations.* Building pad locations, up to the maximum number of units permitted by LEC 105.12.1050(a), which preserve natural topography and drainageways, minimize tree loss, protect historic sites or structures, and limit the need for soil removal and/or grading shall then be identified. The orientation of individual

building sites shall maintain maximum natural topography and ground cover.

- a. Building pads shall be located outside of required buffers, and shall be sited so as to provide ample room for accessory structures on each proposed lot.
- b. If individual septic tanks and drain fields for each lot are to be utilized, locations for primary and secondary facilities for each proposed building pad shall also be identified. All such sites must be verified as being viable as a component of PUD preliminary plan review.
- c. If individual septic tanks utilizing communal drain fields is intended, the plan must clearly identify which communal drain field will service each of the proposed building pads.

(5) *Placement of streets.*

- a. Streets shall then be designed and located in such a manner as to:
 - 1. Maintain and preserve natural topography, groundcover, significant landmarks, and trees;
 - 2. Minimize cut and fill;
 - 3. Preserve and enhance both internal and external views and vistas;
 - 4. Promote road safety;
 - 5. Ensure adequate access for fire and rescue vehicles; and
 - 6. Ensure and promote adequate vehicular circulation both within the development and with adjacent neighborhoods.
- b. The design of streets and the dedication of right-of-way shall be in compliance with the city's current engineering design standards and specifications as may be amended.
- c. Streets shall not encroach into a required buffer area unless it can be demonstrated that such an alignment is necessary to achieve the goals outlined above, and that no equivalent option exists outside of the buffer. Driving surfaces that cross the buffer area at a 90 degree angle to provide current or future access to an adjacent property or boundary road shall be the only exception.

(6) *Lot creation.* Based on the street locations, building pad locations, and septic system locations; lines to delineate individual lots shall then be

identified in accordance with the following:

a. *Lots.*

1. Single-family lots being served by individual septic tanks and drain fields shall be a minimum of one acre in size;
2. Single-family lots being served by individual septic tanks utilizing communal drain fields shall be a minimum of one-half acre (21,780 square feet) in size;
3. All land reserved for communal septic system use shall be located within a dedicated outlot to be owned by the homeowners' association (HOA) of the development; and
4. Base lots for townhomes shall be large enough such that individual unit lots can meet all required structure setbacks contained herein.

b. *Lot specific buildable areas.*

1. The buildable area on each proposed lot which remains after consideration of each of the following shall be shown:
 - i. Required buffers from adjacent lands (See LEC 105.12.170(b));
 - ii. Required setbacks from waterbodies and non-buildable land per shoreland district regulations (See LEC 105.12, art. XIX);
 - iii. Steep slopes;
 - iv. Easements; and
 - v. Land within the following setbacks:

	<i>Housing Type</i>	
	<i>Single-Family Homes</i>	<i>Townhomes</i>
Front yard	30	20
Side yard	15 feet or ten percent of lot width	
Corner lot front yard	30	
Corner lot street side yard	30	
Rear yard	20	

2. Proposed buildable area on each lot shall be sufficient to accommodate primary and accessory structures that are normal and customary to the type of development being proposed.

(7) Open space and park land adjustments.

a. Open space.

1. The total preserved open space area within an open space planned unit development shall be no less than 50 percent of the total gross land area, as defined by LEC 1.08. If this threshold is not achieved after following the first six steps of lot design, the proposed lot areas will need to be adjusted or lots eliminated until this requirement is met.
2. Land needed for stormwater facilities as required by other provisions of this Code may count towards required open space for the purposes of open space PUD design, but must ultimately be placed in outlots to be dedicated to the city.
3. Excluding land needed for compliant stormwater facilities, not less than 60 percent of the remaining preserved open space shall be in contiguous parcels which are five acres or more in size.
4. Preserved open space parcels shall be contiguous with preserved open space or public park land on adjacent parcels.

b. Park land.

1. Parks and recreational facilities shall be provided in the open space PUD (or cash-in-lieu contributions must be made) in addition to preserved open space as specified in the city parks plan.
2. Determination of whether a land dedication or cash-in-lieu contribution will be required to fulfill park land requirements will be at the discretion of the city council after it receives a recommendation from the city parks commission. If a required park land dedication causes overall open space to drop below the minimum threshold, the proposed lot areas will need to be adjusted or lots eliminated until the open space requirement is once again

met.

3. Any park dedication shall be consistent with the dedication and fee-in-lieu standards specified in LEC title 103.

(Code 2007, § 154.657; Ord. No. 08-152, 10-4-2016; Ord. No. 08-239, § 1(154.657), 2020)

105.12.1060 Open Space PUD Development Standards

Open space PUDs shall comply with all of the following development standards unless modifications are authorized for consideration by the city council via a super-majority vote.

(a) Preserved open space standards.

- (1) With the exception of stormwater facilities which must be dedicated to the city, all preserved open space within an open space planned unit development shall be subject to a conservation easement and used for the purposes listed in LEC 105.12.980.
- (2) Preserved open space land shall be controlled in one or more of following manners as determined at the sole discretion of the city council:
 - a. Owned by an individual or legal entity who will use the land for a specific set of purposes which is subject to a permanent conservation easement (in accordance with M.S.A. ch. 84C.01-.05, as it may be amended from time to time), which is held by a holder as defined by M.S.A. ch. 84C.01(2) as approved by the city; and/or
 - b. A conservation easement conveyed to the city;
 - c. Owned as an outlot by the city (this option may only be used for land being dedicated to the city for stormwater maintenance and conveyance purposes).
- (3) Preserved open space land shall be maintained for the purposes for which it was set aside. If preserved open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of proposed homeowners' association declarations and conservation easements to the city describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space for the city's review prior to

recording of these documents.

- (4) Where applicable, a homeowners' association shall be established to permanently maintain all residual open space and recreational facilities. The homeowners' association's declaration must guaranty continuing maintenance and give assessment rights to the city if there is lack of the maintenance. The homeowners' association declaration shall be submitted to the city as part of the documentation requirements of LEC 105.12.1080(c) for an open space PUD final plan.

(b) *Septic system design standards.*

- (1) *In general.* The placement and design of all septic systems shall conform to the requirements of the county.
- (2) *Individual septic drain fields.* Sites for individual septic drain fields, both primary and secondary, must be located entirely within each lot and cannot be located within any easement.
- (3) *Communal drain fields.*
 - a. Communal drain fields may be partially or completely located in an area designated as preserved open space, provided the ground cover is restored to its natural condition after installation, and recreational uses are prohibited above or within 50 feet of communal drain fields or as approved by the city engineer.
 - b. Communal drain fields, if installed, shall be professionally maintained, and are acceptable once legally sufficient documentation has been provided by the developer to ensure such maintenance will continue in perpetuity.

(c) *Building standards.*

- (1) Principal structures within open space PUDs shall not exceed 2½ stories or 35 feet in height.
- (2) It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, and roof pitches. The PUD overlay ordinance crafted for each individual open space PUD should establish minimum architectural standards for the neighborhood.
- (3) All wells shall be located a minimum of 50 feet from septic tanks and septic drain fields.

(d) *Landscaping standards.*

- (1) A landscape plan for the entire site is required and shall consist of at least

ten trees per building site; and trees shall not be not less than 1.5 inches in caliper measured at 54 inches above grade level.

- (2) Boulevard landscaping is required along all streets to consist of at least one tree per every 30 feet or placed in clusters at the same ratio.

(e) *Impervious surface standards.* The maximum impervious surface allowable within an open space planned unit development shall be 25 percent of the land area not dedicated as preserved open space subject to the following:

- (1) Impervious surfaces created by roads, trails, and other planned impervious improvements shall count against the maximum allowed impervious coverage.
- (2) Remaining allowed impervious surface acreage may be distributed between the planned building sites, and maximums for each lot shall be clearly documented within the overlay district ordinance governing the development.

(f) *Trail standards.* A trail system or sidewalks shall be established within open space planned unit developments in accordance with the following:

- (1) The linear footage of trails provided shall be at least equal in length to the sum of the centerline length of all public roads within the development.
- (2) All trails shall be constructed of asphalt or concrete in compliance with the standard city design for trails.
- (3) Proposed trails shall provide connections between and access to the buildable land areas and preserved open space land being created by the development.
- (4) Proposed trails shall connect to existing, planned, or anticipated trails or roads adjacent to the development site and on adjacent parcels.
- (5) If applicable, trails shall be linked (or be designed to provide a future link) to the Old Village to emphasize the connection between existing and new development.

(Code 2007, § 154.658; Ord. No. 08-152, 10-4-2016; Ord. No. 08-230, § 2, 11-5-2019; Ord. No. 08-239, § 1(154.658), 2020)

105.12.1070 Open Space PUD Review Criteria

The following findings shall be made by the city council prior to approval of a new or amended open space planned unit development:

- (a) The proposed development is consistent with the goals, objectives, and policies

of the comprehensive plan.

- (b) All prerequisites for an open space PUD as outlined in LEC 105.12.1030 are met.
- (c) All open space PUD design standards (as outlined in LEC 105.12.1050) and all open space development standards (as outlined in LEC 105.12.1060) are met; or if deviations are proposed, that all such deviations are supported because they achieve the following three goals:
 - (1) The deviations allow for higher quality building and site design that will enhance aesthetics of the site;
 - (2) The deviations help to create a more unified environment within the project boundaries by ensuring one or more of the following: architectural compatibility of all structures, efficient vehicular and pedestrian circulation, enhanced landscaping and site features, and/or efficient use of utilities; and
 - (3) The overall design provides appropriate solutions to eliminate adverse impacts that proposed deviations may impose on surrounding lands.
- (d) If the proposed PUD involves construction over two or more phases, the applicant has demonstrated that each phase is capable of being a stand-alone development independent of other phases.

(Code 2007, § 154.660; Ord. No. 08-152, 10-4-2016; Ord. No. 08-239, § 1(154.660), 2020)

105.12.1080 Open Space PUD Review Procedure

All requests to establish an open space planned unit development shall be initiated by following the steps below:

- (a) *PUD preliminary plan.*
 - (1) *Pre-application conference.* Before filing of an application for OP planned unit development with the city, the applicant of the proposed OP planned unit development shall arrange for and attend a conference with the planning director, city engineer and other city staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this subchapter before incurring substantial expense in the preparation of plans, surveys and other data. No application for an open space PUD preliminary plan will be accepted by the city unless an applicant's proposal is distinctly similar to one reviewed by city staff in the required pre-application conference.

(2) *PUD preliminary plan submittal requirements.* Except as may be waived by the director of planning, the following information shall constitute a complete application for an open space PUD preliminary plan.

- a. All required information for a preliminary plat per LEC 105.12.1200(c) and LEC 105.12.1210.
- b. A separate open space PUD preliminary plan which includes the following information:

- 1. Administrative information including identification of the drawing as an open space PUD preliminary plan, the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and north arrow;
- 2. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space and net land area for calculating project residential density;
- 3. Existing zoning districts on the subject land and all adjacent parcels;
- 4. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote outlots planned for public dedication and/or open space schools, parks, etc.;
- 5. The location of proposed septic disposal areas;
- 6. Area calculations for each parcel;
- 7. Proposed setbacks on each lot forming the building pad. and calculated buildable area;
- 8. Proposed gross hardcover allowance per lot if applicable.;
- 9. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcels in question;
- 10. Delineation of wetlands and/or watercourses over the property;
- 11. Delineation of the ordinary high water levels of all water bodies;

12. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;
 13. Easements and rights-of-way within or adjacent to the subdivision parcels;
 14. The location and orientation of proposed buildings;
 15. Proposed sidewalks and trails;
 16. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary, public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;
 17. Lighting location, style and mounting and light distribution plan;
 18. Proposed parks, common areas, and conservation easements (indicate public vs. private if applicable); and
 19. Location, access and screening detail of large trash handling and recycling collection areas.
- c. Proposed architectural theming and performance standards for the development;
 - d. A grading drainage and erosion control plan prepared by a registered professional engineer providing all information as required by public works, the city engineer, and/or the director of planning;
 - e. A utility plan providing all information as required by public works, the city engineer, and/or the director of planning;
 - f. Results of deep soil test pits and percolation tests, at the rate of no fewer than two successful test results for each proposed septic disposal area;
 - g. The location and detail of signage providing all pertinent information necessary to determine compliance with LEC 105.12.430;
 - h. A tree preservation plan as required by LEC 105.12.470;
 - i. A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in LEC 105.12.480;

- j. A traffic study containing, at a minimum, the total and peak hour trip generation from the site at full development, and the effect of such traffic on the level of service of nearby and adjacent streets, intersections, and total parking requirements;
- k. A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;
- l. Homeowners' association documents including declarations, covenants, articles of incorporation, and bylaws;
- m. Proposed conservation easement documents; and
- n. Any other information as directed by the director of planning.

(3) *PUD preliminary plan review.*

- a. As part of the review process for an open space PUD preliminary plan, the director of planning shall generate an analysis of the proposal against the expectations for PUDs, and make a recommendation regarding the proposed overlay district for planning commission and city council consideration.
- b. The director of planning shall prepare a draft ordinance to establish the potential overlay district to be established as a component of the PUD final plan.
- c. The planning commission shall hold a public hearing and consider the application's consistency with the goals for PUDs, the PUD review criteria, and applicable comprehensive plan goals. The planning commission shall make recommendations to the city council on the merit, needed changes, and suggested conditions to impose on the PUD.
- d. In approving or denying the PUD preliminary plan, the city council shall make findings on the PUD review criteria outlined in LEC 105.12.1070.
- e. As a condition of PUD preliminary plan approval; finalization, adoption, and publication of an overlay district ordinance shall need to occur prior to the filing of any future final plat.

(4) *Effect of a PUD preliminary plan review.* Preliminary plan approval governs the preparation of the PUD final plan which must be submitted for final approval in accordance with the requirements of this section.

(5) *Limitation of approval.* The city council's review of an open space PUD preliminary plan shall remain valid for a period of one year. The city council, in its sole discretion, may extend the validity of its findings for an

additional year.

(b) *PUD final plan.*

(1) *Application deadline.* Application for an open space PUD final plan shall be submitted for approval within 180 days of city council approval of the open space PUD preliminary plan unless a written request for a time extension is submitted by the applicant and approved by the city council.

(2) *PUD final plan submittal requirements.* Except as may be waived by the director of planning, the following information shall constitute a complete application for an open space PUD final plan.

- a. All required information for a final plat per LEC 103.00.080.
- b. All required PUD preliminary plan documents, other than the preliminary plat, shall be updated to incorporate and address all conditions of PUD preliminary plan approval.
- c. Any deed restrictions, covenants, agreements, and articles of incorporation and bylaws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the PUD.
- d. A final staging plan, if staging is proposed, indicating the geographical sequence and timing of development, including the estimated start and completion date for each stage.
- e. Up-to-date title evidence for the subject property in a form acceptable to the director of planning and the city attorney.
- f. Warranty deeds for property being deeded to the city for all parks, stormwater ponds, open space, etc., free from all mortgages, liens and encumbrances.
- g. All easement documents for easements not being dedicated on the final plat including those for trails, ingress/egress, etc., together with all necessary consents to the easements by existing encumbrancers of the property.
- h. Any other information deemed necessary by the director of planning to fully present the intention and character of the open space PUD.
- i. If certain land areas or structures within the open space PUD are designated for recreational use, public plazas, open areas or service facilities, the owner of such land and buildings shall provide a plan to the city that ensures the continued operation and maintenance of such areas or facilities in a manner suitable to the city.

(3) *PUD final plan review.*

- a. The director of planning shall generate an analysis of the final documents against the conditions of the open space PUD preliminary plan approval, and make a recommendation as to whether all conditions have been met or if additional changes are needed.
- b. Staff should once again identify any information submittals that were waived so the city council may determine if such is needed prior to making a final decision.
- c. The director of planning shall finalize the ordinance to establish the proposed overlay district for consideration by the planning commission and the city council.
- d. The planning commission shall hold a public hearing on the proposed overlay district ordinance and open space final PUD plans, and shall submit a recommendation to the city council for consideration. Because an open space PUD preliminary plan was previously approved, the planning commission's recommendation shall only focus on whether the ordinance and open space PUD final plan are in substantial compliance with the open space PUD preliminary plan and the required conditions of approval.
- e. The city council shall then consider the recommendations of the director of planning, the public, and the planning commission; and make a decision of approval or denial, in whole or in part, on the open space PUD final plan. A denial shall only be based on findings that an open space PUD final plan is not in substantial compliance with the approved open space PUD preliminary plan and/or the required conditions of approval.
- f. As a condition of PUD final plan approval, publication of the overlay district ordinance or a summary thereof shall be required prior to filing of the approved final plat.
- g. Planned unit development agreement.
 1. At its sole discretion, the city may as a condition of approval, require the owner and the developer of the proposed open space PUD to execute a development agreement which may include, but not be limited to, all requirements of the open space PUD final plan.
 2. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the city. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the city.

The city may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the provision or development of improvement called for by the development agreement.

- h. As directed by the city, documents related to the PUD shall be recorded against the property.

(4) *Time limit.*

- a. A planned unit development shall be validated by the applicant through the commencement of construction or establishment of the authorized uses, subject to the permit requirements of this Code, in support of the planned unit development within one year of the date of open space PUD final plan approval by the city council. Failure to meet this deadline shall render the open space PUD final plan approval void. The city council may approve extensions for validation of the PUD of up to one year if requested in writing by the applicant; extension requests shall be submitted to the director of planning and shall identify the reasons why the extension is necessary along with an anticipated timeline for validation of the planned unit development.
- b. An application to reinstate an open space PUD that was voided for not meeting the required time limit shall be administered in the same manner as a new open space PUD beginning at open space PUD preliminary plan.

(Code 2007, § 154.661; Ord. No. 08-152, 10-4-2016; Ord. No. 08-239, § 1(154.661), 2020)

105.12.1090 Open Space PUD Amendments

Approved open space PUDs may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer or neighborhood. At such a time, the applicant shall make an application to the city for an open space PUD amendment.

- (a) *Amendments to existing open space PUD overlay districts.* Amendments to an approved open space PUD overlay district shall be processed as one of the following:

- (1) *Administrative amendment.* The director of planning may administratively approve minor changes to an approved open space PUD if such changes

are required by engineering or other circumstances, provided the changes conform to the approved overlay district intent and are consistent with all requirements of the open space PUD ordinance. Under no circumstances shall an administrative amendment allow additional lots, or changes to designated uses established as part of the PUD. An administrative amendment shall be memorialized via letter signed by the planning director.

- (2) *Ordinance amendment.* A PUD change requiring a text update to the adopted open space PUD overlay district language shall be administered in accordance with adopted regulations for zoning code changes in LEC 105.12.280. Ordinance amendments shall be limited to changes that are deemed by the director of planning to be consistent with the intent of the original open space PUD approval, but are technically necessary due to construction of the adopted overlay district language.
- (3) *PUD amendment.* Any change not qualifying for an administrative amendment or an ordinance amendment shall require an open space PUD amendment. An application to amend an open space PUD shall be administered in the same manner as that required for a new PUD beginning at open space PUD preliminary plan.

(b) *Pre-existing OP developments.*

- (1) Pre-existing OP developments authorized prior to October 4, 2016 shall continue to be governed per the original conditions of approval until the OP development is cancelled by the city, or the OP development is converted to an open space PUD overlay district.
- (2) An application to amend an existing OP development shall require the development to be converted into an open space PUD beginning at open space PUD preliminary plan.
 - a. Replatting of lots will only be required if the director of planning determines such is necessary to implement the requested change.
 - b. The resulting overlay zoning district shall be applied to all properties within the OP development being amended.

(Code 2007, § 154.662; Ord. No. 08-152, 10-4-2016; Ord. No. 08-239, § 1(154.662), 2020)

105.12.1100 PUD Cancellation

An open space PUD shall only be cancelled and revoked upon the city council adopting an ordinance rescinding the overlay district establishing the PUD. Cancellation of a PUD shall include findings that demonstrate that the PUD is no longer necessary due to

changes in local regulations over time; is inconsistent with the comprehensive plan or other application land use regulations; threatens public safety, health, or welfare; or other applicable findings in accordance with law.

(Code 2007, § 154.663)

105.12.1110 Administration

In general, the following rules shall apply to all open space PUDs:

- (a) *Rules and regulations.* No requirement outlined in the open space PUD review process shall restrict the city council from taking action on an application if necessary to meet state mandated time deadlines.
- (b) *Preconstruction.* The city shall not grant a building permit for any building on land for which an open space PUD plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed open space PUD plan.
- (c) *Effect on conveyed property.* In the event that any real property in an approved open space PUD is conveyed in total, or in part, the new owners thereof shall be bound by the provisions of the approved overlay district.

(Code 2007, § 154.664; Ord. No. 08-152, 10-4-2016; Ord. No. 08-239, § 1(154.664), 2020)

ARTICLE XVIII PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS

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105.12.1120 Intent

The intent of the Planned Unit Development (PUD) overlay zoning district is to provide

greater flexibility in the use of land and the placement and size of buildings within the development of residential and nonresidential areas in order to achieve more creative development outcomes while remaining economically viable and marketable and to better utilize site features and obtain a higher quality of development. Approval of a planned unit development shall result in a zoning change to a specific PUD overlay district, with specific requirements and standards that are unique to that development. The City reserves the right to deny establishment of a PUD overlay district and direct a developer to re-apply for City approval under the standard applicable zoning district if the City determines the proposed benefits do not justify requested flexibilities.

(Code 2007, § 154.750; Ord. No. 08-070, 2-19-2013; Ord. No. 08-240, § 1(154.750), 2020)

105.12.1130 Identified Objectives

When reviewing requests for approval of a planned unit development, the city shall consider whether one or more of the objectives listed below will be served or achieved. It is the responsibility of the applicant to provide a narrative of how the proposed planned development meets one or more of the city's identified objectives. Planned unit developments should not be allowed simply for the purpose of increasing overall density or allowing development that otherwise could not be approved.

- (a) Innovation in land development techniques that may be more suitable for a given parcel than conventional approaches.
- (b) Promotion of integrated land uses, allowing for a mixture of residential, commercial, and public facilities.
- (c) Provision of more adequate, usable, and suitably located open space, recreational amenities, natural resource protection and other public facilities than would otherwise be provided under conventional land development techniques.
- (d) Accommodation of housing of all types with convenient access to employment opportunities and/or commercial facilities; and especially to create additional opportunities for senior and affordable housing.
- (e) Preservation and enhancement of important environmental features through careful and sensitive placement of buildings and facilities.
- (f) Preservation of historic buildings, structures or landscape features.
- (g) Coordination of architectural styles and building forms to achieve greater compatibility within the development and surrounding land uses.
- (h) Creation of more efficient provision of public utilities and services, lessened demand on transportation, and the promotion of energy resource conservation.
- (i) Allowing the development to operate in concert with a redevelopment plan in certain areas of the city and to ensure the redevelopment goals and objectives

will be achieved.

- (j) Higher standards of site and building design than would otherwise be provided under conventional land development technique.

(Code 2007, § 154.751; Ord. No. 08-070, 2-19-2013; Ord. No. 08-240, § 1(154.751), 2020)

105.12.1140 Allowed Development

Uses within the PUD may include only those uses generally considered associated with the general land use category shown for the area on the official comprehensive land use plan. Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and development plan. The PUD development plan shall identify all the proposed land uses and those uses shall become permitted, conditional or interim uses with the acceptance of the development plan. Any change to the development plan will be considered an amendment to the PUD, and will follow the procedures specified in LEC 105.12.280 for zoning amendments.

- (a) *Uses.* The PUD application shall identify all proposed land uses and those uses shall become permitted, conditional or interim uses upon the approval of the planned unit development. The extent of allowed land uses within a PUD shall be limited to those land uses that are allowed or deemed by the city to be substantially similar to those allowed in the underlying zoning district.
- (b) *Placement of structures.* More than one principal building may be placed on a platted lot within a planned unit development. The appearance and compatibility of buildings in relation to one another, other site elements, and surrounding development shall be considered in the review process.
- (c) *Development intensity.* The PUD may provide for an increase in the maximum impervious surface by up to 20 percent as measured over the entire project site of that allowed in the base zoning district, for the purpose of promoting project integration and additional site amenities. The impact of increased maximum impervious surface must be mitigated through stormwater management techniques approved by city staff and all other applicable agencies.
- (d) *Density.* The PUD may provide for an increase in density of residential development by up to 20 percent of that allowed in the base zoning district, for the purpose of promoting diversity of housing types and additional site amenities. Increased residential densities of varying levels will be awarded based upon the provision of a combination of various site amenities outlined in LEC 105.12, art. VII. In addition, the city retains the right to evaluate all proposals for bonus density in accordance with the overall goals of the city's land use element of the comprehensive plan.
- (e) *Building setbacks.* The PUD may provide for a reduction in or elimination of

required setbacks in the base zoning district, provided that a landscaped setback area of the minimum width established for the base zoning district is maintained along the periphery of the adjacent zoning districts.

- (f) *Lot requirements.* The city council may authorize reductions in the area and width of individual lots within a PUD from that required for the base zoning district, provided that such reductions are compensated for by an equivalent amount of open space or other public amenities elsewhere in the planned unit development. Any open space shall not include areas designated as public or private streets. The plan may increase the maximum density beyond that permitted in the base zoning district for the purpose of promoting an integrated project with a variety of housing types and additional site amenities.
- (g) *Other exceptions.* As part of PUD approval, the city council is authorized to approve other exceptions to the zoning controls applicable to the base zoning district, such as the maximum height of structures or the minimum off-street parking requirements. Such exceptions shall only be granted when they are clearly warranted to achieve the objectives identified in LEC 105.12.1130.
- (h) *Trees/landscaping requirements.* The city council may authorize flexible landscaping approaches and/or tree preservation and replacement standards that better address on-site needs or may require specialized landscaping and/or screening plans that address adjacent property concerns.

(Code 2007, § 154.752; Ord. No. 08-070, 2-19-2013; Ord. No. 08-152, 10-1-2016; Ord. No. 08-240, § 1(154.752), 2020)

105.12.1150 Minimum Requirements

- (a) *Development area.* A PUD must include a minimum of five acres. Tracts of less than five acres may be developed as a PUD only if the city council determines that the following applies:
 - (1) The proposed project is of superior design and can achieve one or more of the identified objectives listed in LEC 105.12.1130; and
 - (2) That compliance with the city's comprehensive plan goals and policies can be attained through the use of the PUD process.
- (b) *Open space.* For all PUDs, at least 20 percent of the project area not within street rights-of-way shall be preserved as protected open space. Other site amenities may be approved as an alternative to this requirement. Any required open space must be available to the residents, tenants, or customers of the PUD for recreational purposes or similar benefit. Wetlands and other land reserved for stormwater detention facilities and other required site improvements may be applied to this requirement.

- (c) *Street layout.* In existing developed areas, the PUD should maintain the existing street grid, where present, and restore the street grid where it has been disrupted. In newly developing areas, streets shall be designed to maximize connectivity in each cardinal direction, except where environmental or physical constraints make this infeasible. All streets shall terminate at other streets, at public land, or at a park or other community facility, except that local streets may terminate in stub streets when those will be connected to other streets in future phases of the development or adjacent developments.

(Code 2007, § 154.753; Ord. No. 08-070, 2-19-2013; Ord. No. 08-239, § 2(154.753), 2020; Ord. No. 08-240, § 1(154.753), 2020)

105.12.1160 Density

The PUD may provide for an increase in density of residential development by up to 20 percent of that allowed in the base zoning district. Applicants seeking increased residential density through a planned unit development are required to provide at least one or a combination of site amenities that equal the required amount of amenity points to achieve the desired density bonus.

- (a) *Amenity points and equivalent density increases.* Increases in density will be awarded through a 1:1 ratio with amenity points. For every increase in amenity points for a planned unit development, the applicant will be allowed an equivalent amount of density increase, up to a maximum increase of 20 percent. Table 16-1 outlines the required amount of amenity points to achieve various density increases.

Table 16-1: Amenity Points and Equivalent Density Increases

<i>Amenity Points</i>	<i>Density Increase</i>
5	5 percent
10	10 percent
15	15 percent
20	20 percent

- (b) *Site amenities.* Site amenities that are eligible for amenity points are listed in Table 16-2, including the associated standards of implementation. Some of the amenities may be awarded a range of amenity point based upon the quality and magnitude of the amenity. The city is not requiring the installation or use of any of these amenities.
- (c) *Site amenities not listed.* The city may also consider the allotment of amenity

points for site amenities that are not otherwise specified within this article as part of the preliminary plan phase of the planned unit development.

Table 16-2: Site Amenities

<i>Poin ts</i>	<i>Ameni ty</i>	<i>Standards</i>
5- -10	Under ground or structu re parkin g	Proposed underground or structured parking must be integrated into the primary structure. The purpose of this amenity is to better integrate parking into the site, reduce the amount of surface parking stalls, and reduce the amount of impervious surface. Proposed underground or structured parking must reduce the amount of surface parking stalls located outside of the footprint of the principal structure by a minimum of 25 percent. Amenity points will be awarded based upon the amount of surface parking stalls reduced (between 25--50 percent). For every additional five percent of surface parking stalls reduced above 25 percent, the applicant will be awarded one additional amenity point, up to a maximum of ten amenity points. The facade of any underground or structure parking areas must match the architectural design of the principal structure.
10	Histori c preser vation	Preservation, rehabilitation or restoration of designated historic landmarks in a manner that is consistent with the standards for rehabilitation of the Secretary of the Interior as part of the development.
10	Additi onal open space	A minimum of 50 percent of the site not occupied by buildings shall be landscaped outdoor open space. A minimum of 50 percent of the provided open space shall be contiguous. Open space classifications that qualify may include natural habitat, neighborhood recreation, trail corridors or open space buffers.
10	Public right- of-way dedic ation	Dedication of land and construction of a public road, trail, pathway, or greenway that is part of an approved city plan, but outside the scope of the immediate project area. Right-of-way improvements should be designed per the specification of the city engineer.
5	Fire sprinkl er	The installation of fire sprinkler systems, per NFPA 13, 13D or 13R, in structures that are not currently required to install these systems under state code. Amenity points will only be awarded in situations where there are a significant proportion of structures in

	systems	the development that are not required to be sprinkled under the state building code. In addition, the density bonus calculation shall only be applied to the number of structures that do not require fire sprinkler systems.
5	Leadership in energy and environmental design	The proposed development shall meet the minimum standards for LEED Silver certification. The project does not have to achieve actual LEED certification; however, the developer must submit the LEED checklist and documentation to the city, approved by a LEED Accredited Professional (LEED-AP), which shows that the project will comply with LEED Silver requirements.
5	Adaptive reuse	Significant renovation, rehabilitation and adaptive reuse of an existing buildings, rather than demolition.
5	Plaza	The development shall include some form of plaza or public square that is wholly or partly enclosed by a building or buildings. Plazas are landscaped or paved open areas that shall have a minimum area not less than 1,000 square feet. Plazas for commercial or mixed-use development shall be open to the public during daylight hours.
1-5	Enhanced landscaping	A landscaping plan of exceptional design that has a variety of native tree, shrub and plant types that provide seasonal interest and that exceeds the requirements of the Lake Elmo Design Standards Manual. The landscaped areas should have a resource efficient irrigation system. The landscaping plan shall be prepared by a licensed landscape architect. Amenity points shall be awarded based upon the quality and magnitude of the landscaping plan.
3	Enhanced stormwater management	Provide capacity for infiltrating stormwater generated on-site with artful rain garden design that serves as a visible amenity. Rain garden designs shall be visually compatible with the form and function of the space and shall include long-term maintenance of the design. The design shall conform to the requirements per the Minnesota Stormwater Manual and shall meet the approval of the city engineer.
1-3	Theming	Significant utilization of various elements of theming consistent with the 2013 Lake Elmo Theming Project, including, but are not limited to, signage, fencing, landscaping, lighting and site furnishings. Amenity points will be awarded based upon the quality and magnitude of theming elements integrated into the

		project.
3	Natural features	Site planning that preserves significant natural features or restores ecological functions of a previously damaged natural environment above and beyond that required by city ordinance or engineering standards.

(Code 2007, § 154.754; Ord. No. 08-070, 2-19-2013; Ord. No. 08-239, § 2(154.754), 2020; Ord. No. 08-240, § 1(154.754), 2020)

105.12.1170 Coordination With Other Regulations

- (a) *Coordination with subdivision review.* subdivision review under the subdivision regulations shall be carried out simultaneously with the review of the PUD. The plans required under this subchapter shall be submitted in a form that will satisfy the requirements of the subdivision ordinance for the preliminary plat and final plat.
- (b) *Coordination with other zoning requirements.* All of the provisions of this article applicable to the original district within which the planned unit development district is established shall apply to the PUD district except as otherwise provided in approval of the final plan.

(Code 2007, § 154.755; Ord. No. 08-070, 2-19-2013; Ord. No. 08-239, § 2(154.754), 2020; Ord. No. 08-240, § 1(154.755), 2020)

105.12.1180 Phasing And Guarantee Of Performance

- (a) *Development schedule.* The city shall compare the actual development accomplished in the various PUD zones with the approved development schedule.
- (b) *Note.* See LEC 105.12.1210(c)(4).
- (c) *Phasing of amenities.* The construction and provision of all of the common open space, site amenities and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units, if any. The planning director shall review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If the planning director finds that the rate of construction of dwelling units is greater than the rate at which common open spaces, site amenities and public and recreational facilities have been constructed and provided, the planning director shall forward this information to the city council for their consideration and possible action.
- (d) *Guarantees.* A financial guarantee or letter of credit shall be required to

guarantee performance by the developer. The amount of this financial guarantee or letter of credit, and the specific elements of the development program that it is intended to guarantee, will be stipulated in the development agreement.

(e) *Note.* See LEC 105.12.1220(a).

(f) *Rezoning to original district.* If substantial development has not occurred within a reasonable time after approval of the PUD zoning district, the city council may instruct the planning commission to initiate rezoning to the original zoning district. It shall not be necessary for the city council to find that the rezoning was in error.

(Code 2007, § 154.756; Ord. No. 08-070, 2-19-2013; Ord. No. 08-239, § 2(154.756), 2020; Ord. No. 08-240, § 1(154.756), 2020)

105.12.1190 Control Of Planned Unit Development Following Completion

(a) *Final development plan controls subsequent use.* After the certificate of occupancy has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned unit development shall be governed by the final development plan.

(b) *Allowed changes.* After the certificate of occupancy has been issued, no changes shall be made in the approved final development plan except upon application as provided below:

(1) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the development review committee if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the cubic volume of any building or structure by more than ten percent; and

(2) Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under this chapter.

(c) *Amendment required for major changes.* Any other changes in the final development plan, including any changes in the use of common open space, must be authorized by an amendment of the final development plan under the procedures for zoning amendments, LEC 105.12, art. III.

(Code 2007, § 154.757; Ord. No. 08-070, 2-19-2013; Ord. No. 08-239, § 2(154.757), 2020; Ord. No. 08-240, § 1(154.757), 2020)

105.12.1200 Procedures For Processing A Planned Unit Development

There are three stages to the PUD process: application conference, preliminary plan and

final plan, as described below.

- (a) *Application conference.* Before filing of an application for PUD with the city, the applicant of the proposed PUD shall arrange for and attend a conference with the planning director, the city engineer and other city staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this subchapter before incurring substantial expense in the preparation of plans, surveys and other data.
- (b) *Preliminary plan.* Following the pre-application conference, the applicant may submit a preliminary plan application and preliminary plat, in accordance with the requirements described in LEC 103.00.070. The application shall proceed and be acted upon in accordance with the procedures in this article for zoning changes.
- (c) *Final plan.* Following approval of the preliminary plan, the applicant shall submit a final plan application and final plat, in accordance with the requirements described in LEC 103.00.080. The application shall proceed and be acted upon in accordance with the procedures in this article for zoning changes. If appropriate because of the limited scale of the proposal, the preliminary plan and final plan may proceed simultaneously.
- (d) *Schedule for plan approval.*
 - (1) Developer has a pre-application conference with city staff for their review and comment of the proposed PUD.
 - (2) Following the pre-application conference with city staff, the application may proceed to the preliminary plan phase.
 - (3) The developer presents the preliminary plan to the planning commission for its review and comment.
 - (4) After verification by the planning director that the required plan and supporting data are adequate, the planning commission shall hold a public hearing about the proposed preliminary PUD plan, with public notice.
 - (5) The planning commission shall conduct the hearing and report its findings and make recommendations to the city council.
 - (6) The city may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
 - (7) The city council may hold a public hearing after the receipt of the report and recommendations from the planning commission. If the planning

commission fails to make a report within 60 days after receipt of the application, then the city council may proceed without the report. The city council may approve the preliminary plan and attach such conditions as it deems reasonable.

- (8) Following city council approval of the preliminary plan, the application may proceed to the final plan phase.
- (9) The developer must present the final plan to the planning director for his review and comment.
- (10) After verification by the planning director that the required final plan and supporting data are adequate, the planning commission shall hold a public hearing, with public notice.
- (11) The planning commission shall conduct the hearing and report its findings and make recommendations to the city council.
- (12) The city may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
- (13) After the receipt of the report and recommendations from the planning commission, the city council may approve the final plan and attach such conditions as it deems reasonable.

(Code 2007, § 154.758; Ord. No. 08-070, 2-19-2013; Ord. No. 08-239, § 2(154.758), 2020; Ord. No. 08-240, § 1(154.758), 2020)

105.12.1210 Application Requirements For Pre-Application Conference, Preliminary Plan And Final Plan

Five copies of the following plans, exhibits and documents shall be submitted to the city before the pre-application conference, and as part of preliminary plan stage and the final plan stage applications:

(a) Pre-application conference.

(1) General information.

- a. The landowner's name and address and his interest in the subject property.
- b. The applicant's name and address if different from the landowner.
- c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including, but not limited to, attorney, land planner, engineer and surveyor.

(2) *Present status.*

- a. The address and legal description of the property.
- b. The existing zoning classification and present use of the subject property and all lands within 350 feet of the subject property.
- c. A map depicting the existing development of the subject property and all land within 350 feet of the subject property and showing the location of existing streets, property lines, easements, water mains, and storm and sanitary sewers, with invert elevations on and within 100 feet of the subject property.
- d. Site conditions. Where deemed necessary by the city, graphic reproductions of the existing site conditions at a scale of one-inch equals 100 feet shall be submitted and contain the following:
 1. Contours; minimum five-foot intervals;
 2. Location, type and extent of tree cover;
 3. Slope analysis; and
 4. Location and extent of water bodies, wetlands, streams, and floodplains within 300 feet of the subject property.
- e. A written statement generally describing the proposed PUD and showing its relationship to the city comprehensive plan.
- f. Schematic drawing of the proposed development concept, including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.
- g. Proposed design features related to proposed streets, showing right-of-way widths, typical cross-sections, and areas other than streets, including, but not limited to, pedestrian ways, utility easements and stormwater facilities.
- h. Statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
 1. Area devoted to residential use by building type;
 2. Area devoted to common open space;
 3. Area devoted to public open space and public amenities;
 4. Approximate area devoted to, and number of, off-street

parking and loading spaces and related access;

5. Approximate area, and floor area, devoted to commercial uses; and

6. Approximate area, and floor area, devoted to industrial or office use.

i. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a preliminary schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage and overall chronology of development to be followed from stage to stage.

j. The city may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.

k. The city may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD.

(b) PUD preliminary plan stage.

(1) *PUD preliminary plan submittal requirements.* Requests for preliminary PUD plans shall be filed with the planning director on an official city application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of four large scale copies and ten reduced scale (11-inch by 17-inch) copies of all graphics. The application shall be considered as being officially submitted and complete when the applicant has met all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

a. Preliminary plat and preliminary major subdivision information required by LEC 103.00.090.

b. General information:

1. The landowner's name and address and his interest in the subject property.

2. The applicant's name and address if different from the

landowner and the applicant's interest in the subject property.

3. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including but not limited to attorney, land planner, landscape architect, engineer, and surveyor.
4. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date title commitment or certificate of title and such other evidence as the city attorney may require to show the status of title or control of the subject property.

(2) *Present status.*

- a. The address, property identification number (PID) and legal description of the property.
- b. The existing zoning classification and present use of the subject property and all lands within 350 feet of the property.
- c. A map depicting the existing development of the property and all land within 350 feet thereof and indicating the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within 100 feet of the property.
- d. A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the city's comprehensive plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the city.
- e. A statement of the proposed financing of the PUD.
- f. Site conditions. Graphic reproductions of the existing site conditions at a scale of one-inch equals 100 feet. All of the graphics should be at the same scale as the final plan to allow easy cross-reference. The use of overlays is recommended for ease of analysis.
 1. Contours; minimum two-foot intervals.
 2. Location, type and extent of tree cover.

3. Slope analysis.
 4. Location and extent of water bodies, wetlands and streams and floodplains within 300 feet of the property.
 5. Significant rock outcroppings.
 6. Existing drainage patterns
 7. Vistas and significant views.
 8. Soil conditions as they affect development.
- g. Schematic drawing of the proposed development concept, including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.
- h. A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
1. Area devoted to residential use by building type;
 2. Area devoted to common open space;
 3. Area devoted to public open space and public amenities;
 4. Approximate area devoted to streets;
 5. Approximate area devoted to, and number of, off-street parking and loading spaces and related access;
 6. Approximate area, and floor area, devoted to commercial uses; and
 7. Approximate area, and floor area, devoted to industrial or office use.
- i. When the proposed PUD includes increases in density of residential development above the base zoning district, a statement describing the site amenities to be included within the PUD, and demonstrating that the proposed site amenities sufficiently achieve the desired density bonus. The applicant is required to demonstrate that all site amenity standards have been met in order to be awarded increased density for residential development.
- j. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule

for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such state and overall chronology of development to be followed from stage to stage.

- k. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
- l. Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
- m. Schematic utilities plans indicating placement of water, sanitary and storm sewers infrastructure and systems.
- n. Applicable plans must meet or exceed the requirements of the City's Engineering Design and Construction Manual.
- o. Any additional information deemed necessary and required by the Planning Director. The Planning Director may waive for good cause certain information requirements not pertinent to the particular request.
- p. The city may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.
- q. The city may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD.

(3) PUD preliminary plan review.

- a. As part of the review process for a PUD preliminary plan, the planning director shall review the PUD, and shall prepare a report and make a recommendation about the proposed preliminary PUD plan for planning commission and city council consideration.
- b. The planning director shall prepare a draft ordinance to establish the potential PUD overlay zoning district to be established as a component of the PUD final plan.
- c. The planning commission shall hold a public hearing and report its findings and make recommendations to the city council on the merit, needed changes and suggested conditions the city should impose on the PUD.

- d. As a condition of PUD preliminary plan approval; finalization, adoption, and publication of an overlay district ordinance shall need to occur before the filing of any future final plat.

- (4) *Effect of a PUD preliminary plan review.* The approved PUD preliminary plan governs the preparation of the PUD final plan. The applicant or developer shall submit the proposed PUD final plan to the city for final approval in accordance with the requirements of this title.
- (5) *Limitation of approval.* The city council's approval of a PUD preliminary plan shall remain valid for a period of 180 days, unless a request for time extension of up to one year is submitted in writing to the city and approved by the city council. (See subsection (c)(4) of this section about PUD time limits.)

(c) *PUD Final Plan Stage.*

- (1) The applicant or developer shall submit an application for a PUD final plan to the city for approval within 180 days of city council approval of the PUD preliminary plan unless a written request for a time extension is submitted by the applicant and approved by the city council.
- (2) Development and PUD final plan stage submissions should depict and outline the proposed implementations of the preliminary plan stage for the PUD. Information from the pre-application conference and preliminary plan stages may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include, but not be limited to:
 - a. A final plat and information required by LEC 103.00.080;
 - b. Final plans drawn to a scale of not less than one-inch equals 100 feet (or a scale requested by the planning director) containing at least the following information:
 - 1. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat heretofore recorded in the county where the subject property is situated);
 - 2. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;
 - 3. An accurate legal description of the entire area within the PUD for which final development plan approval is sought;
 - 4. The location, size, use and arrangement, including height in stories and feet, and total square feet of ground area

coverage, and floor area of proposed buildings, including manufactured homes, and existing buildings which will remain, if any;

5. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights-of-way, utility lines and facilities, lots, block, public and common open space, trails, landscaping and screening, structures and uses;
- c. A tabulation indicating the number of residential dwelling units and expected population;
 - d. Density calculations, including proposed density bonuses above the base zoning district. To be granted increased density of residential development, the applicant must submit a schedule of site amenities with proposed designs and standards. The applicant must demonstrate that site amenity standards in Table 15-2 have been met to be rewarded additional density;
 - e. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g., retail or office);
 - f. Preliminary architectural typical plans indicating use, floor plan, elevations and exterior wall finishes of proposed building, including manufactured homes;
 - g. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements;
 - h. Location, designation and total area of all common open space;
 - i. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities;
 - j. The location of applicable site amenities, if any;
 - k. Proposed lots and blocks, if any and numbering system;
 - l. The location, use and size of structures and other land uses on adjacent properties;
 - m. Detailed plans and provisions of proposed landscaping and screening;
 - n. Grading, drainage and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should

clearly reflect the site treatment and its conformance with the approved preliminary PUD plan;

- o. A soil erosion control plan acceptable to watershed districts, the Department of Natural Resources, or any other agency with review authority, clearly illustrating erosion control measures to be used during construction and as permanent measures;
- p. Applicable plans must meet or exceed the requirements of the City's Engineering Design and Construction Manual; and
- q. Any other information that may have been required by the planning commission or city council in conjunction with the approval of the preliminary plan.

(3) PUD final plan review.

- a. The planning director shall prepare an analysis of the final documents against the conditions of the PUD preliminary plan approval and shall make a recommendation as to whether all conditions have been met or if the applicant needs to make additional changes to the project plans.
- b. The planning director shall identify any information submittals that were waived so the city council may determine if such is needed before making a final decision.
- c. The planning director shall finalize the ordinance to establish the proposed overlay district for consideration by the planning commission and city council.
- d. The planning commission shall hold a public hearing on the proposed PUD overlay district ordinance and final PUD Plans and shall submit a recommendation to the city council for their consideration. Because the city council previously approved a PUD preliminary plan for the site, the planning commission's recommendation shall only focus on whether the ordinance and PUD final plan are in substantial compliance with the PUD preliminary plan and the required conditions of approval.
- e. The city council shall then consider the recommendations of the planning director, the public, and the planning commission; and make a decision of approval or denial, in whole or in part, on the PUD final plan. A city council denial shall only be based on findings that a PUD final plan is not in substantial compliance with the approved PUD preliminary plan and/or the required conditions of approval.
- f. As a condition of PUD final plan approval, publication of the PUD

ordinance shall be required before filing of the approved final plat.

g. Planned unit development agreement.

1. At its sole discretion, the city may, as a condition of approval, require the owner and developer of the proposed PUD to execute a development agreement that may include but not be limited to all requirements of the PUD final plan.
2. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the city. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the city. The city may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the installation or development of all improvements called for by the city and outlined in the development agreement.

h. As directed by the city, the applicant or developers shall record with the county all documents related to the PUD against the property.

(4) Time limit.

- a. A planned unit development shall be validated by the applicant through the commencement of construction or establishment of the authorized uses, subject to the permit requirements of this Code, in support of the planned unit development within one year of the date of PUD final plan approval by the city council. Failure to meet this deadline shall render the PUD final plan approval void. Notwithstanding this time limitation, the city council may approve time extensions for validation of an approved PUD of up to one year if requested in writing by the applicant; extension requests shall be submitted to the planning director and shall identify the reasons why the extension is necessary along with an anticipated timeline for validation of the planned unit development.
- b. The city shall administer and process an application to reinstate a PUD that was voided for not meeting the required time limit for validation and implementation in the same manner as a new PUD beginning at PUD preliminary plan.

(Code 2007, § 154.759; Ord. No. 08-070, 2-19-2013; Ord. No. 08-239, § 2(154.759),

2020; Ord. No. 08-240, § 1(154.759), 2020)

105.12.1220 PUD Amendments

PUDs approved by the city may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer or neighborhood. At such a time, the applicant shall make an application to the city for a PUD amendment. Amendments to existing planned unit development shall be processed as one of the following:

- (a) *Administrative amendment.* The planning director may approve minor changes to an approved PUD such as location, placement and height of structures if such changes are required by engineering or other circumstances, provided the changes conform to the approved PUD overlay district intent and are consistent with all requirements of the PUD ordinance. Under no circumstances shall an administrative PUD amendment allow additional residential lots or additional residential units to an approved PUD. The planning director may allow changes to designated uses established as part of the PUD if the city determines the proposed use changes would be substantially similar to the permitted uses approved by the city for the PUD. An administrative amendment shall be memorialized via letter signed by the planning director and recorded at the county against the PUD property.
- (b) *Ordinance amendment.* A PUD change requiring a text update to the adopted PUD overlay district language shall be administered in accordance with adopted regulations for zoning code changes in § 154.105. Ordinance amendments shall be limited to changes that are deemed by the city to be consistent with the intent of the original PUD approval, but are technically necessary due to construction of the adopted PUD district language.
- (c) *PUD amendment.* Any change not qualifying for an administrative amendment or an ordinance amendment shall require a PUD amendment. The city shall administer and process an application to amend a PUD in the same manner as the city requires for a new PUD beginning at PUD preliminary plan. Such major changes requiring city approval of a PUD amendment are those that, as determined by the planning director, substantially change the basic design, density, open space, similar requirements or provisions of the approved PUD.

(Ord. No. 08-240, § 1(154.760), 2020)

105.12.1230 PUD Cancellation

The city shall only cancel and revoke a PUD upon the city council adopting an ordinance rescinding the PUD district. Cancellation of a PUD by the city council shall include findings that demonstrate the PUD is no longer necessary due to changes in local regulations over time; is inconsistent with the comprehensive plan or other

application land use regulations; threatens public safety, health, or welfare; has become void; or other applicable findings in accordance with law.

(Ord. No. 08-240, § 1(154.761), 2020)

105.12.1240 Administration

In general, the following rules shall apply to all PUDs:

- (a) *Rules and regulations.* No requirement outlined in the PUD review process shall restrict the city council from taking action on an application if necessary to meet state mandated time deadlines.
- (b) *Preconstruction.* The city will not grant or issue a building permit for any building on land for which a PUD plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed PUD plan.
- (c) *Effect on conveyed property.* In the event that any real property in a city-approved PUD is conveyed in total, or in part, the new owners thereof shall be bound by the provisions of the PUD zoning district.

(Ord. No. 08-240, § 1(154.762), 2020)

105.12.1250 City Costs

The applicant shall make a deposit of a fee escrow with the city for the purpose of reimbursing any costs directly related to a given development. Such costs include, but are not limited to, professional fees and expenses incurred by the city for consultants (including, but not limited to, planners, engineers, architects, landscape architects and attorneys) who the city determines in its sole judgment are necessary to assist in reviewing, implementing or enforcing the provisions of this article. The amount of the deposit, and any addition to it that the city may later require, shall be established by the planning director. The city and the applicant may agree to share the costs of consultants based upon a specific written agreement. Any funds not used by the city shall be returned to the applicant at the conclusion of the project.

(Code 2007, § 154.760; Ord. No. 08-070, 2-19-2013; Ord. No. 08-239, § 2(154.760), 2020; Ord. No. 08-240, § 1(154.760), 2020)

ARTICLE XIX SHORELAND MANAGEMENT OVERLAY DISTRICT

[105.12.1260 Shoreland Management Overlay District](#)

105.12.1260 Shoreland Management Overlay District

- (a) *Purpose.* This article is adopted pursuant to the authorization and policies

contained in M.S.A. 103F, Minn. R. parts 6120.2500—6120.3900, and the planning and zoning enabling legislation in M.S.A. ch. 462. The purpose of the Shoreland Management Overlay District is to preserve and enhance the quality of surface waters and conserve the economic and natural environmental values of shorelands through the following activities:

- (1) Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting from the facilities.
- (2) Regulate alteration of shorelands of public waters to prevent excessive sediment pollution, increased water runoff and excessive nutrient runoff pollution.
- (3) Preserve and enhance the unique aesthetic appearance and ecological value of the shoreland.
- (4) Regulate the construction of buildings and changes of land use in shorelands to minimize property damage during periods of high water.

(b) *Definitions.* Words, terms and phrases, when used in this section, shall have the meanings ascribed to them in LEC 1.08, except where the context clearly indicates a different meaning.

(c) *Shoreland Management Overlay District.*

- (1) *Shoreland classifications.* The public waters in Table 17-1 have been classified by the commissioner of natural resources, consistent with the classifications assigned by the commissioner under Minn. R. part 6120.3300, as: Natural Environment (NE), Recreational Development (RD) and Tributary (T) shorelands.

Table 17-1: Shoreland Classifications

<i>DN R ID #</i>	<i>Name</i>	<i>Location</i>	<i>Ordinary High Water Level</i>	<i>Cl as s</i>
820 116 01	Armstrong (north of CSAH 10)	Sec. 28, T29, R21	1020.3	N E
820 116 02	Armstrong (south of CSAH 10)	Sec. 28, T29, R21	1019.3	N E
820 099 00	Clear	Sec. 2 and 11, T29, R21	-	N E

820 101 00	DeMontreville	Sec. 4, 5 and 9, T29, R21	929.3	R D
820 105 00	Berschen's Pond			N E
820 110 00	Downs	Sec. 24, T29, R21	889.1	N E
820 109 00	Eagle Point	Sec. 22 and 27, T29, R21	896.5	N E
820 106 00	Elmo	Sec. 13, 14, 23, 24 and 26, T29, R21	885.6	R D
820 108 00	Friedrich Pond	Sec. 15 and 22, T29, R21	-	N E
820 113 00	Goose	Sec. 27, 34 and 35, T29, R21	924.4	N E
820 111 00	H.J. Brown Pond	Sec. 26, T29, R21	-	N E
820 074 00	Horseshoe	Sec. 25, T29, R21	876.8	N E
820 104 00	Jane	Sec. 9 and 10, T29, R21	924.0	R D
820 117 00	Kramer	Sec. 35, T29, R21	-	N E
820 103 00	Olson	Sec. 8 and 9, T29, R21	929.3	R D
N/A	Raleigh Creek North (to Eagle Point Lake)	Sec. 16, 21 and 22, T29, R21	-	T
N/A	Raleigh Creek South (Eagle Point Lake to Lake	Sec. 22, 23 and	-	T

	Elmo)	227, T29, R21		
820 112 00	Rose	Sec. 25 and 36, T29, R21	-	N E
820 107 00	Sunfish	Sec. 14, T29, R21	896.4	N E
820 100 00	Unnamed	Sec. 4, T29, R21	-	N E
820 313 00	Unnamed	Sec. 12, T29, R21	-	N E
N/A	Unnamed to Wilmes Lake	Sec. 33, T29, R21	-	T
N/A	Unnamed Tributary	Sec. 25, T29, R21	-	T
Classifications:				
RD = Recreational Development Lake Classification				
NE = Natural Environment Lake Classification				
T = Tributary River Classification				
Notes to Table 17-1:				
a. As measured from and perpendicular to the ordinary high water level (OHWL).				

- (2) *Land uses in shoreland districts.* All uses of land shall be regulated by the applicable zoning district subject to applicable conditions. Notwithstanding the underlying zoning district, the following uses shall be regulated in shoreland districts as specified in Table 17-2:

Table 17-2: Permitted (P) and Conditional (C) Uses, Shoreland Classifications

	<i>Shoreland Classification</i>		
<i>Land Uses</i>	<i>Recreational Development</i>	<i>Natural Environment</i>	<i>Tributary River</i>
Residential	P	P	P
Commercial	P	C	C

Public and civic uses	P	C	C
Outdoor recreational	C	C	C
Agricultural and related uses ^{b, c}	P	P	P
Industrial and extractive uses	-	-	-
Utilities, transportation and communications	C	C	C
Accessory uses	P	P	P
Planned developments (PUDs)	C	C	C
Forest land conversion	C	C	C
Notes to Table 17-2:			
a. City owned parks and open space and any uses or structures accessory to such uses are permitted within shoreland areas.			
b. Vegetative clearing within shore and bluff impact zones and on steep slopes is not permitted.			
c. New feedlots are not allowed in any Shoreland Management Overlay District.			

- (3) *Shoreland standards.* The standards in Table 17-3 shall apply within shoreland areas to principal, conditional and accessory uses and structures:

Table 17-3: Shoreland Standards

<i>Standards</i>	<i>Shoreland Classification</i>		
	<i>Recreational Development</i>	<i>Natural Environment</i>	<i>Tributary River</i>
Minimum structure setback from county, state or federal road right-of-way	50 feet	50 feet	50 feet
Minimum setback from right-of-way line of town road, public street, or other roads or streets not classified	20 feet	20 feet	20 feet
Minimum structure setback from an			

unplatted cemetery or historical site ^a	50 feet	50 feet	50 feet
Minimum Structure Setback From The Ordinary High Water Level (OHWL): ^{b, c, e}			
Sewered ^d	75 feet	150 feet	50 feet
Unsewered ^d	100 feet	150 feet	100 feet
Minimum structure setback from top of bluff	30 feet	30 feet	30 feet
Minimum septic system setback from OHWL	75 feet	150 feet	75 feet
Minimum low floor elevation above the 100-year flood elevation	2 feet	2 feet	2 feet
Maximum Impervious Lot Coverage:			
Sewered ^e	30 percent		
Unsewered	15 percent		
Minimum Lot Size ^f , Riparian Lots:			
Sewered:			
Single-family detached	20,000 s.f.	40,000 s.f.	Same as zoning district
Two-family or duplex	35,000 s.f.	70,000 s.f.	
Triplex	120,000 s.f.	160,000 s.f.	Same as zoning district
Quad	160,000 s.f.	200,000 s.f.	
Unsewered:			
Single-family detached	40,000 s.f.	80,000 s.f.	Same as zoning district
Two-family or duplex	80,000 s.f.	120,000 s.f.	

Minimum Lot Size ^f , Non-Riparian Lots:			
Sewered:			
Single-family detached	15,000 s.f.	20,000 s.f.	Same as zoning district
Two-family or duplex	26,000 s.f.	35,000 s.f.	
Triplex	38,000 s.f.	52,000 s.f.	
Quad	49,000 s.f.	65,000 s.f.	
Unsewered:			
Single-family detached	40,000 s.f.	80,000 s.f.	Same as zoning district
Two-family or duplex	80,000 s.f.	160,000 s.f.	
Minimum Lot Width, ^{f, g} Riparian Lots:			
Sewered:			
Single-family detached	75 feet	125 feet	75 feet
Two-family or duplex ^e	135 feet	225 feet	115 feet
Triplex ^e	195 feet	325 feet	150 feet
Quad ^e	255 feet	425 feet	190 feet
Unsewered:			
Single-family detached	150 feet	200 feet	100 feet
Two-family or duplex ^e	225 feet	300 feet	150 feet
Minimum Lot Width, Non-Riparian Lots:			
Sewered:			
Single-family detached	75 feet	125 feet	75 feet

Two-family or duplex ^e	135 feet	220 feet	115 feet
Triplex ^e	190 feet	315 feet	150 feet
Quad ^e	245 feet	410 feet	190 feet
Unsewered:			
Single-family detached	150 feet	200 feet	100 feet
Two-family or duplex ^e	265 feet	400 feet	150 feet
Maximum Structure Height	35 feet	35 feet	35 feet
Notes to Table 17-3:			
a. Reduction of the required setback from an historic site is permitted with the approval of the office of the Minnesota State Archeologist.			
b. Where structures exist on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the Ordinary High Water Level (OHWL), provided the proposed building is not located in a shore impact zone or bluff impact zone.			
c. Roads, driveways and parking areas shall meet the minimum structure setback. Where no alternative exists, such improvements may be placed within the required structure setbacks provided they are designed to adapt to the natural landscape, soil erosion is minimized and no construction shall occur in shore or bluff impact zones. Exceptions to setback requirements must comply with the rules and regulations of local watershed districts.			
d. Commercial, public and civic uses located on lots with public waters frontage shall be setback double the required setback or be substantially screened from the water by vegetation or topography, assuming summer, leaf-on conditions.			
e. Subdivisions of duplexes, triplexes, and quads within Natural Environment Shoreland districts must also meet standards set forth in subsection (c)(5)c of this section.			
f. Minimum lot size and width requirements apply to residential uses only.			
g. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions. Must meet or exceed the following standards: They must meet the width and			

size requirements for residential lots, and be suitable for the intended uses of controlled access lots.

i. If docking, mooring, or over-water storage of more than six watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

<i>Controlled Access Lot Frontage Requirements</i>	
<i>Ratio of Lake Size to Shore Length (acres/mile)</i>	<i>Required Increase in Frontage (percent)</i>
Less than 100	25 percent
100--200	20 percent
201--300	15 percent
301--400	10 percent
Greater than 400	5 percent

They must be jointly-owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot; and covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(4) *Design criteria for structures.*

- a. *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal

structure setbacks if the structure complies with the following provisions:

1. *Structure height.* The structure or facility must not exceed ten feet in height, exclusive of safety rails, from the average grade of the structure to the peak of the roof. Detached decks must not exceed eight feet above grade at any point.
 2. *Structure size.* Water-oriented accessory structures cannot occupy an area greater than 250 square feet.
 3. *Structure setback.* The setback of the structure or facility landward from the ordinary high water level (OHWL) must be at least ten feet on a recreational development lake and 50 feet on a natural environment lake.
 4. *Visibility screening.* 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.
 5. *Roof decking.* The roof of the structure may be used as a deck with safety rails, but must not be enclosed or used as a storage area.
 6. *Habitation, water and sewage prohibited.* The structure or facility must not be used for human habitation and must not contain water supply or sewage treatment facilities.
 7. *Watercraft storage facilities.* As an alternative for recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including the storage of related boating and water-oriented sporting equipment, may occupy up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.
- b. *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:
1. Stairways and lifts must not exceed four feet in width. Wider stairways may be used for public open space or recreation properties.
 2. Landings for stairways and lifts must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for public open space or recreation properties.

3. Canopies or roofs are not allowed on stairways, lifts or landings.
 4. Stairways, lifts and landings may be either constructed above ground on posts or pilings or placed into the ground, provided that they are designed and built in a manner that ensures control of soil erosion.
 5. Stairways, lifts and landing must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
 6. Facilities such as public and private watercraft access ramps, lifts, access-related parking areas, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (c) (4)b.1 through 5 of this section are satisfied and provided the vegetative screening and erosion control requirements are met.
- c. *Roads, driveways, and parking areas.* Public and private roads, driveways, 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.
- d. *Steep slopes.* Local government officials 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.
- (5) *Subdivision standards.* The following standards shall apply to subdivisions in shoreland areas:
- a. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. In determining

suitability, the city will consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision, or of the community at-large.

- b. Subdivisions must conform to all other official controls adopted by the city. Subdivisions will not be approved that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. Lots that would require use of holding tanks must not be approved.
- c. On natural environment lakes, subdivisions of duplexes, triplexes, and quads 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 that 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 in a duplex, triplex, or quad environment.

(6) *Agricultural activities.* The following standards shall apply to agricultural activities in shoreland areas:

- a. The shore impact for parcels with permitted agricultural uses is equal to a line parallel to and 50 feet from the OHWL.
- b. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore 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 district or the USDA Natural Resources Conservation Service.
- c. New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are

conditional uses and must meet the following standards:

1. Feedlots must be designed consistent with Minn. R. ch. 7020;
2. Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more;
3. Old feedlots not currently in operation may resume operation consistent with M.S.A. § 116.0711;
4. The use of pesticides, fertilizers or animal wastes within shoreland areas shall be done in such a way as to minimize impacts on shore impact zones by proper application or use of earth or vegetation.

(7) *Shoreland alterations.* The purpose of this section is to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent back slumping and protect fish and wildlife habitat. Shoreland alterations shall be allowed in accordance with the following standards:

- a. *Bluff or shore impact zones.* No principal or accessory structure or use shall be placed within bluff or shore impact zones other than agricultural activities as permitted by subsection (c)(6)b of this section.
- b. *Shore impact zones.* Shore impact zones shall be maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district.
- c. *Intensive vegetative clearing.* Intensive vegetation clearing within shore and bluff impact zones and/or steep slopes is not permitted. Intensive clearing within shoreland areas outside of bluff or shore impact zones and steep slope areas is subject to standards set forth in subsection (c)(8) of this section.
- d. *Limited tree clearing.* Limited clearing of trees and shrubs and the cutting, pruning and trimming of trees within bluff and shore impact zones or steep slopes to accommodate picnic areas, trails and water access and to provide a view to the water from a principal dwelling site shall be permitted provided the screening of structures, as viewed from the water, is not substantially reduced and that the shading of water surface is along rivers is preserved. These provisions do not apply to the removal of tree limbs or

branches that are dead or pose a safety hazard.

e. *Grading in shoreland areas.* All grading and filling activities must be in conformance with the Wetland Conservation Act. Any grading or filling on steep slopes or within shore or bluff impact zones involving the movement of ten or more cubic yards of material or involving more than 50 cubic yards of material elsewhere in a shoreland area shall require the submission of a grading permit. Approval shall be granted only if the following conditions are met:

1. The smallest amount of bare ground is exposed for the shortest time possible;
2. Ground cover such as mulch is used for temporary bare soil coverage and permanent ground cover, such as sod, is established;
3. Methods to prevent erosion and trap sediment during construction are employed;
4. Altered areas are stabilized to accepted erosion control standards;
5. Fill is not placed so as to create unstable slopes;
6. Plans to place fill or excavated material on steep slopes are certified by qualified professionals as to slope stability and must not create finished slopes of 30 percent or greater;
7. Alterations below the OHWL of public waters must first be authorized by the commissioner of the state department of natural resources per M.S.A. §§ 103G.245 and 103G.405;
8. 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 OHWL and the height of the riprap above the OHWL does not exceed three feet;
9. Alterations of topography shall only be permitted if accessory to a permitted or conditional use;
10. Fill or excavated material must not be placed in bluff impact zone.

(8) *Forest management standards.* The harvesting of timber and associated reforestation or conversion of forested use to a nonforested use must be

conducted consistent with the following standards:

- a. Timber harvesting and associated reforestation must be conducted consistent with the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.
- b. Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:
 1. Shore and bluff impact zones must not be intensively cleared of vegetation.
 2. An erosion and sediment control plan is developed and approved by the city and local soil and water conservation district and is consistent LEC 105.04.710 before issuance of a conditional use permit for the conversion.

(9) *Stormwater management.* Stormwater management shall be in accordance consistent LEC 105.04.710. In addition, the state pollution control agency's Minnesota Stormwater Manual shall be used as guidance. Within shoreland areas, the following standards also apply:

- a. Existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater in a manner consistent with local watershed district rules and regulations before discharge to public waters.
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, and erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as grading is complete and facilities or methods used to retain sediment on the site are removed.
- c. Use of fertilizers, pesticides or animal wastes within shoreland areas must be done in a way to minimize impact on the shore impact zone or public water by proper application.
- d. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(10) *Private utilities.* The following provisions shall apply in shoreland areas:

- a. Private subsurface sewage treatment systems shall meet applicable city and county requirements and Minn. R. ch. 7080 standards. Publicly-owned sewer systems shall be used where available.

- b.
 - 1. Any private water supply to be used for domestic purposes shall meet quality standards established by the state department of health and the state pollution control agency.
 - 2. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the water well construction code of the state department of health.

(11) *Planned unit developments (PUD).*

- a. *Purpose.* To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential uses.
- b. *Density.* Deviation from the minimum lot size standards of Table 17-3 in this section is allowed if the standards in this section are met.
- c. *Processing of PUDs.* Planned unit developments are processed according to the procedures and standards of LEC 105.12, arts. XVI and XVII, whichever is more restrictive. Approval cannot occur until all applicable environmental reviews are complete.
- d. *Application for a PUD.* The applicant for a PUD must submit the following documents prior to final action on the application request:
 - 1. A property owners association agreement with mandatory membership, and consistent with subsection (c)(11)h.4.i of this section.
 - 2. Deed restrictions, covenants, permanent easements or other instruments that:
 - i. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - ii. Ensure preservation and maintenance of open space in perpetuity accordance with the criteria and analysis specified in subsection (c)(11)h of this section.
- e. *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:

<i>Classification</i>	<i>Tier Depth</i>	
	<i>No Sewer (feet)</i>	<i>Sewer (feet)</i>
Recreational development lakes	267	267
Natural environment lakes	400	320
Tributary rivers	300	300

2. Step 2. Calculate suitable area for development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.
3. Step 3. Determine base density.
 - i. Divide the suitable area within each tier by the minimum single residential lot area in Table 17-3 use required minimum riparian lot areas for the first tier unless no lots within the first tier are riparian. for lakes to determine the allowable number of dwelling units, or base density, for each tier. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any tier closer to the waterbody.
 - ii. All PUDs must meet the design standards in subsection (c)(11)f of this section.
4. Step 4. Determine if the site can accommodate increased density.
 - i. The PUD may provide for an increase in density of up to 20 percent allowed in the base zoning district or in Table 17-3, whichever is more restrictive, if: Structure setbacks from the ordinary high water level;

- ii. Are increased to at least 50 percent greater than the minimum setback; or
- iii. 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.

f. *Design criteria.* All PUDs must meet the following design criteria:

1. General design standards.

- i. Dwelling units must be clustered into one or more groups and located on suitable areas of the development.
- ii. Dwelling units must be designed and located to meet the dimensional standards, other than those for lot area and width, in Table 17-3;
- iii. Shore recreation facilities:
 - (a) Must be centralized and located in areas suitable for them based on a suitability analysis (as explained in subsection (c)(5)a of this section).
 - (b) The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit in the first tier.
 - (c) Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units located in other tiers.
- iv. At least 50 percent of the total project area shall be preserved as open space and must meet standards outlined in subsection (c)(11)g of this section.
- v. PUDs shall be connected to public water supply and sewer systems. When sewer is not available, individual septic systems are not allowed; community sewage treatment systems are required.
- vi. Approval from the DNR is required to ensure compliance with additional regulations.

2. 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.
3. Accessory structures and facilities, except water-oriented accessory structures, must meet the required structure setback and must be centralized.

g. Open space requirements.

1. Open space must constitute at least 50 percent of the total project area within the shoreland and must include:

- i. Areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries;

- ii. Portions of the shore impact zone preserved in its natural or existing state as follows:

- (a) For existing residential PUDs, at least 50 percent of the shore impact zone

- (b) For new residential PUDs, at least 70 percent of the shore impact zone.

2. Open space may include:

- i. Outdoor recreational facilities for use by owners of lots in the subdivision and by the general public;

- ii. Stormwater detention facilities, subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems, and other required site improvements not prohibited herein may be applied to this requirement;

- iii. Non-public water wetlands.

3. Open space shall not include:

- i. Road rights-of-way, or land covered by roads, structures or parking surfaces;

- ii. Lots, unless owned in common by an owners association;
- iii. Commercial facilities or uses;
- iv. Land below the OHWL of public waters.

h. *Open space maintenance and administration requirements.*

1. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved.
2. Before final approval of a PUD is granted, the developer/owner shall provide for the preservation and maintenance, in perpetuity, of open space and the continuation of the development as a community.
3. The instruments must prohibit:
 - i. Commercial uses;
 - ii. Vegetation and topographic alterations other than routine maintenance;
 - iii. Construction of additional buildings or storage of vehicles and other materials; and
 - iv. Uncontrolled beaching of watercraft.
4. Development organization and functioning. All planned unit developments must use an owners association with the following features:
 - i. Membership must be mandatory for each dwelling unit owner and any successive owner;
 - ii. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
 - iii. Assessments must be adjustable to accommodate changing conditions; and
 - iv. The association must be responsible for insurance, taxes, and maintenance of all commonly-owned property and facilities.

(12) *Nonconformities.*

- a. All legally established nonconformities as of the date of the ordinance codified in this section may continue, but will be managed according to M.S.A. § 462.357(1e) and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.
- b. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this article. Any deviation from these requirements must be authorized by a variance.
- c. Setback averaging. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone.
- d. Setbacks of decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - 1. The structure existed on the date the structure setbacks were established.
 - 2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
 - 3. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.
 - 4. The deck is constructed primarily of wood, and is not roofed or screened.

(13) *Surface water-oriented uses.* Uses with needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters must meet the following standards:

- a. In addition to meeting impervious coverage limits, setbacks, and other zoning standards, 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 and design them to avoid obstructions of

navigation and to be the minimum size necessary to meet the need.

- c. 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.
- d. 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.
- e. Other 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.

(d) *Administration.*

(1) *Variances.* Variances may only be granted in accordance with M.S.A. § 462.357 and are subject to the following:

- a. A variance may not circumvent the general purposes and intent of this section; and
- b. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minn. R. § 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.

(2) *Conditional uses.* All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:

- a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- b. The visibility of structures and other facilities as viewed from public waters is limited;
- c. There is adequate water supply and on-site sewage treatment; and
- d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(3) *Mitigation.*

- a. In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address, when related to and proportional to the impact, the following conditions to meet the purpose of this article, to protect adjacent properties, and the public interest:
 1. Advanced stormwater runoff management treatment;
 2. Reducing impervious surfaces;
 3. Increasing setbacks from the ordinary high water level;
 4. Restoration of wetlands;
 5. Limiting vegetation removal and/or riparian vegetation restoration;
 6. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
 7. Other conservation-designed conditions the zoning authority deems necessary.
- b. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions 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 shall be attached to permits.

(4) *Notifications to the department of natural resources.*

- a. 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.
- b. 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.

- c. Any request to change the shoreland management classification of public waters 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. 6120.3000, subpt.4.
- d. Any request to reduce the boundaries of shorelands of public waters must be sent to the commissioner or the commissioner's designated representative for approval. 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.

(5) *Subsurface sewage treatment system certificate of compliance.* A certificate of compliance, consistent with Minn. R. 7082.0700 subpt. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficient is the system's improper setback from the ordinary high water level.

(Code 2007, § 154.800; Ord. No. 08-111, 5-20-2014; Ord. No. 08-166, 3-7-2017)

ARTICLE XX CLOSED LANDFILL RESTRICTED

[105.12.1270 Authorization](#)

[105.12.1280 Permitted, Conditional, And Interim Uses](#)

[105.12.1290 Lot Dimensions And Building Bulk Requirements](#)

[105.12.1300 Site Design And Development Standards](#)

105.12.1270 Authorization

This article is adopted pursuant to the authorization and policies contained in M.S.A. § 115B.412, sub. 9. The purpose of the closed landfill restricted zoning district is to protect the integrity of the landfill's remediation and monitoring systems; protect human healthy and public safety at each landfill; and accommodate local government needs and desires for land use at the qualified facility with consideration for health and safety requirements.

(Code 2007, § 154.801)

105.12.1280 Permitted, Conditional, And Interim Uses

Table 18-1 lists all permitted, conditional, and interim uses allowed in the closed landfill restricted zoning district. "P" indicates a permitted use, "C" a conditional use, and "I" an interim use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under "Standards" indicate the location within this section of specific development standards that apply to the listed use.

Table 18-1: Permitted, Conditional, and Interim Uses

	<i>CLR</i>	<i>Standard</i>
Closed Landfill Management	P	LEC 105.12.110 (b)(10)
Solar Farms	C	LEC 105.12.1250, LEC 105.12.1260, LEC 105.12.1440

(Code 2007, § 154.802; Ord. No. 08-198, § 5, 2-20-2018)

105.12.1290 Lot Dimensions And Building Bulk Requirements

<i>Structure Setback Requirements (feet)</i>	<i>CLR</i>
Front yard	50
Side yard	50
Rear yard	25

(Ord. No. 08-198, § 6(154.803), 2-20-2018)

105.12.1300 Site Design And Development Standards

Solar farms. Proposed locations and plans for solar farms must be approved by both the city and state pollution control agency (MPCA). Required buffer width may be waived through conditional use permit approval.

(Ord. No. 08-198, § 6(154.804), 2-20-2018)

ARTICLE XXI DESIGN AND PERFORMANCE STANDARDS; RESTRICTIONS ON NUISANCE AND HAZARDOUS ACTIVITIES

[105.12.1310 Minimum Standards: Purposes](#)

[105.12.1320 Principal Building](#)

[105.12.1330 Public Convenience Structures](#)

[105.12.1340 Traffic Control](#)

[105.12.1350 Storage Of Hazardous Materials](#)

[105.12.1360 Explosives](#)

[105.12.1370 Fallout Shelters](#)

[105.12.1380 Dwelling Units In Commercial And Industrial Districts](#)

[105.12.1390 Radiation And Electrical Interference Prohibited](#)

[105.12.1400 Temporary Farm Dwelling](#)
[105.12.1410 Temporary Construction Office](#)
[105.12.1420 Recreation Vehicles](#)
[105.12.1430 Recreational Camping Area](#)
[105.12.1440 Agricultural Sales Businesses](#)
[105.12.1450 Agricultural Entertainment Businesses](#)
[105.12.1460 Enforcement](#)
[105.12.1470 Solar Farms](#)
[105.12.1480 Airport Overlay District](#)
[105.12.1490 Penalty](#)

105.12.1310 Minimum Standards; Purposes

All uses, buildings, and structures permitted pursuant to this article shall conform to the performance and design standards set forth in this article; the standards are determined to be the minimum standards necessary to comply with the intent and purposes of this Code as set forth in this article.

(Code 1997, § 300.13, subd. 1; Code 2007, § 154.900)

105.12.1320 Principal Building

- (a) There shall be no more than one principal building on any one parcel of land.
- (b) No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior structure above, or accessory building shall be used at any time as a dwelling unit.
- (c) All principal buildings hereafter erected on unplatted land shall be so placed as to avoid obstruction of future street or utility extensions and shall be so placed as to permit reasonably anticipated future subdivisions and land use.
- (d) All principal buildings shall meet or exceed the minimum standards of the state building code, the state uniform fire code, the state department of health, the state pollution control agency, and the city's on-site sewage treatment ordinance.

(Code 1997, § 300.13, subd. 2; Code 2007, § 154.901)

105.12.1330 Public Convenience Structures

No public use or convenience structure shall be located within the public right-of-way. The structure shall include, but shall not be limited to, trash containers, institutional direction signs, bicycle racks, benches, plating boxes, awnings, flag poles, bus shelters, light standards, stairs, stoops, light wells, newspaper storage containers, mail boxes for private mail delivery firms, loading wells, signs, and others. The structures do not include utility facilities.

(Code 1997, § 300.13, subd. 5; Code 2007, § 154.902)

105.12.1340 Traffic Control

- (a) The traffic generated by any use shall be controlled so as to prevent:
 - (1) Congestion of the public streets;
 - (2) Traffic hazards; and
 - (3) Excessive traffic through residential areas, particularly truck traffic.
Internal traffic shall be so regulated as to ensure its safe and orderly flow.
Traffic into and out of business and industrial areas shall in all cases be forward-moving with no backing into street.
- (b) On any corner lot, nothing shall be placed or allowed to grow in a manner that impedes vision between a height of 2 1/2 feet and ten feet above the centerline grades of the intersecting streets within 15 feet of the intersecting street right-of-way lines. This restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within 15 feet of any intersecting street right-of-way lines.

(Code 1997, § 300.13, subd. 8; Code 2007, § 154.903)

105.12.1350 Storage Of Hazardous Materials

No uses associated with the bulk storage of over 2,000 gallons of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall be permitted except as are specifically permitted by the council after finding that fire, explosion, or water or soil contamination hazards are not present that would be detrimental to the public health, safety, and general welfare. All existing above ground liquid storage tanks having a capacity in excess of 2,000 gallons shall secure such permission within 12 months following enactment of this article. The zoning administrator shall require the development of diking around the tanks, suitably sealed to hold a leakage capacity equal to 115 percent of the tank capacity. Any existing storage tank that, in the opinion of the planning commission or the council, constitutes a hazard to the public safety shall discontinue operations within five years following enactment of the ordinance codified in this article.

(Code 1997, § 300.13, subd. 9; Code 2007, § 154.904)

105.12.1360 Explosives

No activities involving the storage, use, manufacture of materials or products which could be detonated shall be permitted except those that are specifically permitted by the council. The materials shall include, but shall not be confined to, all primary explosives such as lead azide and mercury fulminate; all high explosives and boosters such as TNT, tetryl and nitrates; propellants and components thereof such as nitrocellulose,

black powder, and nitroglycerin; blasting explosives such as dynamite; and nuclear fuel and reactor elements such as uranium 235 and plutonium.

(Code 1997, § 300.13, subd. 10; Code 2007, § 154.905)

105.12.1370 Fallout Shelters

Fallout shelters may be permitted in any district, subject to yard regulations of the district. The shelters may contain or be contained in other structures or be constructed separately, and in addition to shelter use, may be used for any use permitted in the district, subject to the district regulations on that use.

(Code 1997, § 300.13, subd. 11; Code 2007, § 154.906)

105.12.1380 Dwelling Units In Commercial And Industrial Districts

Dwelling units for watchman and family shall be considered as an accessory use and shall conform to all applicable regulations for the district in which located, except as modified in this section:

- (a) A dwelling unit in the commercial district located in a commercial structure shall not occupy the front half of the ground floor or basement.
- (b) A dwelling unit in a commercial or industrial building shall not contain more than one bedroom, unless the building is part of a planned unit development.
- (c) No detached dwelling unit shall be permitted in the commercial or industrial districts, except as part of a planned unit development.
- (d) A dwelling unit which is a part of the principal building shall be provided with two exits; one shall be a direct outside exit.
- (e) All buildings shall conform to the building code and applicable fire codes.

(Code 1997, § 300.13, subd. 12; Code 2007, § 154.907)

105.12.1390 Radiation And Electrical Interference Prohibited

No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation of ordinary business or household equipment and appliances. Any such emissions are declared to be a nuisance.

(Code 1997, § 300.13, subd. 14; Code 2007, § 154.908)

105.12.1400 Temporary Farm Dwelling

- (a) No person shall park or occupy a mobile home on the premises of a lot with any

occupied dwelling or on any land which is situated outside an approved mobile park, except as provided in this section. The mobile home will be an accessory dwelling unit located on a farm of at least 75 acres in size.

(b) Occupants.

- (1) The mobile home will be occupied by persons who are either:
 - a. Members of the family of the persons occupying the principal dwelling house on the premises; or
 - b. Members of the family engaged in the occupation of farming on the premises as partners or other business associates of the persons living in the principal dwelling house on the premises, and who earn 50 percent or more of their annual gross income for federal income tax purposes from farming on the premises.
- (2) The mobile home use will expire and terminate at such time as the persons occupying the mobile home are no longer engaged in farming on the premises as required by LEC 105.12.260(b); and
- (3) At the time of termination, the mobile home temporary farm dwelling shall be removed from the premises within 30 days when practicable.

(Code 1997, § 300.13, subd. 16; Code 2007, § 154.909)

105.12.1410 Temporary Construction Office

A temporary mobile home may be permitted in any district if the zoning administrator finds the following conditions are satisfied:

- (a) The mobile home will be utilized as a field headquarters for directing the ongoing construction of a project;
- (b) Only one mobile home shall be permitted on each project;
- (c) The mobile home shall have adequate sanitary facilities or the site shall have temporary sanitary facilities installed;
- (d) The mobile home and parking spaces shall adhere to all setbacks for the zoning district and shall only utilize the permitted access driveway;
- (e) The mobile home shall not be used as a dwelling unit; and
- (f) The mobile home shall be removed within 30 days of the permit termination.

(Code 1997, § 300.13, subd. 17; Code 2007, § 154.910)

105.12.1420 Recreation Vehicles

- (a) The term "recreational camping vehicle" includes the following:
- (1) Any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses;
 - (2) Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;
 - (3) Any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; and
 - (4) Any folding structure, mounted on wheels and designed for travel, recreation and vacation use.
- (b) A recreational vehicle may not be parked on any land outside of an approved camping area or an approved sales lot, except that the parking of one unoccupied vehicle in an accessory private garage, building, or in the rear yard of a residential district is permitted, provided that no living quarters shall be maintained or any business practiced in the trailer while it is so parked or stored.
- (c) A recreational vehicle of the type described in subsection (a) of this section and owned by a non-resident, guest or visitor may be parked or occupied by the guest or visitor on property on which a permanent dwelling unit is located for a period not to exceed 30 days while visiting the resident of the property. The recreation vehicle shall have self-contained sanitary facilities or standard on-site facilities as required by the community building official/sanitarian.

(Code 1997, § 300.13, subd. 18; Code 2007, § 154.911)

105.12.1430 Recreational Camping Area

Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents, or recreational camping vehicles free of charge or for compensation. Recreational camping area excludes children's camps, industrial camps, migrant labor camps, as defined in state statutes and state commissioner of health rules, U.S. Forest Service Camps, state forest service camps, state wildlife management areas or state-owned public access area, which are restricted in use to picnicking and boat landing, also referred to as "area" in this section.

- (a) *Trailer park operation.* No person, firm, or corporation shall develop or operate any recreational camping area without having first obtained a conditional use permit.
- (b) *Application.* The application for an approval, in addition to the requirements, shall indicate the name and address of the developer and a general description of the construction schedule and construction costs. The application shall be accompanied by 20 copies of plans, which indicate the following:

- (1) Location and size of camping area;
 - (2) Location and size of all vehicle or trailer lots, dead storage areas, recreation areas, laundry drying areas, roadways, parking spaces and sites, and all setback dimensions;
 - (3) Detailed landscaping plans and specifications;
 - (4) Detailed grading plan with two-foot contour intervals;
 - (5) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, and gas service;
 - (6) Plans for an overhead street lighting system shall be submitted for approval by the city engineer;
 - (7) The method of disposing of garbage and refuse;
 - (8) Location, size, and character of each lot;
 - (9) Location and size of all streets abutting the area;
 - (10) Road construction plans and specifications;
 - (11) Plans for any and all structures; and
 - (12) Such other information as may be required or requested by the city.
- (c) *Designation of uses.* The area design shall designate specific areas for primitive tent camping, recreation vehicles, and trailers.
- (d) *Trailer park lots.* On any area lot, the placement of recreational vehicles shall conform to all setbacks and other requirements of the zoning district in which the lot is located.
- (e) *Performance standards for trailer parks.*
- (1) All water supply and sanitary facilities must conform to the current recommendations of the state department of health and pollution control agency.
 - (2) All areas shall have at least 20 percent of the land area (exclusive of internal streets) developed for recreational use (i.e., tennis courts, children's play equipment, swimming pools, golf greens and the like) which shall be developed and maintained by the owner or operator at owner's/operator's expense. All areas must have an area or areas set aside for dead storage and over-load parking. Open air drying of laundry and clothes shall be allowed only in approved areas established and maintained exclusively for that purpose.
 - (3) All utilities, such as sewer, water, fuel, electric, telephone, and television antenna lead-ins, shall be buried to a depth specified by the city engineer,

and there shall be no overhead wires or support poles except those essential for street or other lighting purposes. All utility connections shall be approved by the city prior to connection. Plans for the disposal of surface stormwater shall be approved by the city engineer.

- (4) All land area shall be adequately drained and properly maintained free of dust, refuse, garbage, rubbish or debris. The proposed method of garbage, waste, and trash disposal must be approved by the council and must meet or exceed the current state department of health standards.
- (5) All structures shall require a building permit. It is not the intent of this chapter to repeal or abrogate any part of the building code. The provisions of this chapter shall be enforced in addition to and in conjunction with the provisions of the building code.
- (6) The source of fuel for cooking, eating, or other purposes for each lot shall be approved by the council. Periodic inspection of the entire park by the zoning administrator may be required.
- (7) No vehicle shall be allowed in a vehicle park that does not conform to the requirements of the motor vehicle code of the state. Every structure in a vehicle park shall be developed and maintained in a safe, approved, and substantial manner.
- (8) A properly landscaped area shall be adequately maintained around each area. No vehicular building shall be located within 20 feet of the exterior boundary of any park or within 40 feet of any exterior, existing public road right-of-way.
- (9) Each area shall contain at least 30 fully developed vehicle lots. Access to parks shall be provided as required by the zoning administrator. The access streets shall be paved in accordance with minimum specifications required for the construction of any city street.
- (10) Advertising shall be limited to one sign not to exceed 24 square feet, with lighting, height, and location as approved by the council.
- (11) Each area must have one or more central community buildings with central heating which must be maintained in a safe, clean, and sanitary condition. The buildings shall be adequately lighted during all hours of darkness and shall contain laundry washers, dryers and drying areas, in addition to public toilets and lavatory. Each area shall have a building for the use of the operator distinctly marked office and the marking shall be illuminated during all hours of darkness. An illuminated map of the park shall be displayed at the office.
- (12) An adult caretaker must be on duty at all times in the area. The operator of every area shall maintain a register in the office of the area indicating the name and address of the owner and occupants of each vehicle, license

number of each recreational vehicle and automobile of each occupant, and the date of arrival and departure of each vehicle. The corners of each lot shall be clearly marked and each lot shall be numbered. The grounds of the park shall be adequately lighted from sunset to sunrise.

- (13) No dogs or animals shall be permitted to run at-large within the area. No public address or loud speaker system will be permitted.
- (14) No RV camping area shall be located so that drainage from the park or camp area will endanger any water supply. All areas shall be well drained. No portion of the area shall be located in an area subject to flooding. No waste water from the trailers or other recreational vehicles shall be deposited on the surface of the ground.
- (15) Each lot shall abut or face a driveway or clear unoccupied space of not less than 16 feet in width, which shall have unobstructed access to the internal area road system.
- (16) Lots shall be designed to allow an open space of at least 50 feet between each vehicle or tent and at least 30 feet between the vehicle or tent and the front lot line butting the interior camping area road system.
- (17) Each lot shall have 200 square feet of off-street parking space, or as approved by the zoning administrator, for two automobiles. No parking spaces shall be closer than ten feet to any side yard lot line.
- (18) Each lot, or pair of lots, shall contain adequate containers to store, collect, and dispose of refuse and garbage so as to create no health hazards, rodent damage, insect breeding, accident or hazardous fire areas, or air pollution. Each lot, or pair of lots, shall have insect-proof, water-tight, rodent-proof refuse container on the lots.
- (19) Each lot shall be no further than 400 feet from the nearest, readily available drinking water supply.
- (20) Each lot with an individual water system connection shall have a water supply capable of supplying 100 gallons of water per site per day.
- (21) All recreational vehicle areas shall be equipped with at least one central toilet, bathing and laundry building, which meets or exceeds the requirements of the state department of health, except that in primitive tent camping areas, only toilet facilities shall be required as per the state department of health.
- (22) Outdoor cooking or burning shall be confined to fireplaces, pits, grills, or stoves, which shall be permanently affixed to a designated location on each lot as per the site plan. Each permanent cooking or burning facility shall be placed on the lot so as to minimize the fire hazards and smoke nuisance.

- (23) Incineration of refuse, garbage, or other wastes shall not be permitted within any recreational vehicle camping area.
- (24) All centralized refuse collection and equipment, and area maintenance equipment shall be stored in a screened and fenced service yard within the camping area.

(Code 1997, § 300.13, subd. 19; Code 2007, § 154.912)

105.12.1440 Agricultural Sales Businesses

Agricultural sales businesses shall be allowed upon the issuance of an interim use permit in agricultural and rural areas that are guided for rural agricultural density or future sewered development in accordance with the comprehensive plan. Agricultural sales businesses shall be subject to the following performance standards:

- (a) Activities shall be limited to those listed within the definition for agricultural sales business.
- (b) The agricultural sales business shall be located on land owned or leased by the producer or the operator of the business, and not within or on any public rights-of-way or easements.
- (c) The operator must be able to demonstrate at all times to the city that there is sufficient access, parking and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.
- (d) All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.
- (e) All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.
- (f) The maximum gross floor area that can be devoted to sales activities is limited to 20,000 square feet.
- (g) Parking shall be provided in accordance with the parking requirements for other commercial uses, as per § 154.051(C). All parking must occur on-site, be on a primary surface such as Class 5 gravel or pavement and must be set back at least 30 feet from all property lines.
- (h) The minimum lot size shall be 40 acres for any agricultural sales business.
- (i) On-site wastewater handling system shall be planned and designed by a licensed professional and approved by the city or its designated responsible authority. Usable primary and alternate well and septic sites sized for the maximum anticipated usage of the property shall be identified on the property.

Alternate sites shall be protected in the site plan design, and will only need to be used upon failure of a primary site.

- (j) Any structures constructed for the agricultural sales business shall be consistent on design and appearance with other agricultural buildings in the area.
- (k) Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. The base daily trip generation is established at 180 vehicle trips per day for even 40 acres.
- (l) The maximum impervious coverage for the buildings, parking areas and other uses devoted to the agricultural sales business shall not exceed 40,000 square feet and the remainder shall be suitably landscaped.
- (m) Any activities that are defined as an agricultural entertainment business shall require a separate interim use permit.
- (n) Any exterior storage of equipment and materials other than the display of products being sold or agricultural equipment currently in use on the property shall be prohibited, unless otherwise exempted in accordance with LEC 105.04.010 through LEC 105.04.030.
- (o) There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.
- (p) Rooftop or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the buildings.
- (q) Trash containers must be located inside or screened in an acceptable manner.
- (r) The operator shall adhere to the general review criteria applicable to all interim use permit applications.
- (s) No activities or structures beyond those specified in the interim use permit shall be added before review by the city to determine compliance with this section.

(Code 2007, § 154.913; Ord. No. 08-006, 6-17-2008; Ord. No. 08-031-A, 10-5-2010)

105.12.1450 Agricultural Entertainment Businesses

Agricultural entertainment businesses shall be allowed upon the issuance of an interim use permit in agricultural and rural areas that are guided for rural agricultural density or future sewered development in accordance with the comprehensive plan. Agricultural entertainment businesses shall be subject to the following performance standards:

- (a) An agricultural entertainment business shall adhere to all performance standards as outlined in LEC 105.12.1410 for an agricultural sales business;

- (b) The property proposed to be used for agricultural entertainment must be located with direct access to a collector or arterial street as identified in the comprehensive plan;
- (c) Discharge of firearms, including blanks, shall not be allowed on the property;
- (d) The property owner must take reasonable steps to prevent trespassing on adjacent properties by employees, contractors or patrons.

(Code 2007, § 154.914; Ord. No. 08-031-A, 10-5-2010; Ord. No. 08-198, 2-7-2018)

105.12.1460 Enforcement

- (a) *Application to city personnel.* The failure of any officer or employee of the city to perform any official duty imposed by this chapter shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.
- (b) *Equitable relief.* In the event of a violation or the threatened violation of any provision of this chapter, or any provision or condition of a permit issued pursuant to this chapter, the city in addition to other remedies may institute appropriate actions or proceedings to prevent, restrain, correct, or abate the violation or threatened violation.

(Code 1997, § 300.14; Code 2007, § 154.915; Ord. No. 08-006, 6-17-2008)

105.12.1470 Solar Farms

- (a) *Conditional or interim use permit.* A conditional or interim use permit subject to the zoning district in which the proposed solar farm is to be located.
- (b) *Minimum lot size, setbacks, and screening requirements.* Solar farms are limited to properties at least ten acres in size. Solar farms must maintain a setback of at least 50 feet from adjacent properties and be screened and fenced as determined by the city from adjacent residential properties.
- (c) *Stormwater and NPDES.* Solar farms are subject to the city's and watershed district's stormwater management and erosion and sediment control provisions and NPDES permit requirements.
- (d) *Foundations.* A qualified engineer shall certify that the foundation and design of the solar panels, racking and support is within accepted professional standards, given local soil and climate conditions.

(Ord. No. 08-198, § 3(154.915), 2-20-2018)

105.12.1480 Airport Overlay District

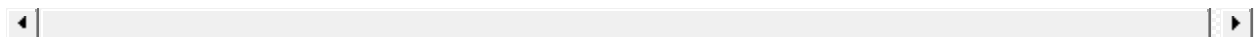
- (a) *Applicability.* The airport overlay district applies to land near the Lake Elmo General Aviation Airport. The specific regulations in this district are in addition to, rather than in lieu of, regulations imposed by any other zoning classification for the same land.
- (b) *Regulations.* Properties and uses within this overlay district are regulated in accordance with the City of Lake Elmo Zoning Ordinance and also must abide by the Lake Elmo Airport Zoning Ordinance. In the event of a conflict between the City of Lake Elmo Zoning Ordinance and the Lake Elmo Airport Zoning Ordinance, the more stringent limitation or requirement shall govern and prevail. A copy of the Lake Elmo Airport Zoning Ordinance is available at the Lake Elmo City Hall, as well as with the Metropolitan Airports Commission.

(Ord. No. 08-250, § 1(154.920), 2-20-2018)

105.12.1490 Penalty

- (a) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of LEC 1.04.230.
- (b) The violation of any provision of this chapter, except for §§ 154.120 through 154.128, or the violation of the conditions or provisions of any permit issued pursuant to this chapter shall be a misdemeanor and, upon conviction, shall be subject to the penalties set forth in LEC 1.04.230.

(Code 1997, § 300.14; Code 2007, § 154.999)



APPENDIX A FEE SCHEDULE

Printed herein is the Fee Schedule Ordinance of the City of Lake Elmo, Minnesota, Ordinance No. 08-231, as adopted by the city council on December 17, 2019. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

ORDINANCE NO. 08-231 AN ORDINANCE ADOPTING A 2020 FEE SCHEDULE FOR THE CITY OF LAKE ELMO

The City Council of the City of Lake Elmo ordains:

Sec. I. Schedule adopted.

The attached fee schedule is hereby adopted.

(Ord. No. 08-231, § I, 12-17-2019)

Sec. II. Not codified.

This ordinance is transitory in nature and shall not be codified in the City Code. This ordinance and the fee schedule established hereby shall be placed on file and available for public inspection at City Hall.

(Ord. No. 08-231, § II, 12-17-2019)

Sec. III. Effect.

The fees set out in the attached fee schedule apply notwithstanding any other fees the City has established which may be inconsistent. Any other fees imposed by the City which do not appear on the attached fee schedule remain in full force and effect.

(Ord. No. 08-231, § III, 12-17-2019)

Sec. IV. Effective date.

This ordinance shall become effective for all billings rendered after December 31, 2019, and upon adoption and publication in the official newspaper of the City of Lake Elmo.

(Ord. No. 08-231, § IV, 12-17-2019)

Sec. V. Adoption date.

This Ordinance No. 08-231 was adopted on this 17th day of December, 2019.

(Ord. No. 08-231, § V, 12-17-2019)