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**TABLE I: FRANCHISE AGREEMENTS; CONTRACTS**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
10	5-4-1936	Granting an electricity distribution franchise to Minnesota Power and Light Company (repealed by Ord. 25)
25	11-2-1953	Granting an electricity distribution franchise to Minnesota Power and Light Company (repealed by Ord. 33)
30	3-2-1964	Granting a non-exclusive gas system franchise to The North Star Natural Gas Company
33	4-7-1969	Granting an electricity distribution franchise to Minnesota Power and Light Company (repealed by Ord. 54)
53	5-24-1985	Creating and awarding a cable communications franchise to Central Lakes Cable TV
54	12-7-1987	Granting an electricity distribution and transmission system to Minnesota Power and Light Company
58	12-7-1987	Granting the transfer of a cable television system franchise from Central Valley Cablevision, Inc., to Midcontinent Cable Systems Company of Minnesota
59	12-7-1987	Approving the transfer of a cable television system franchise from Central Valley Cablevision, Inc., to Midcontinent Cable Systems Company of Minnesota
R. 69-1030B	12-7-1987	Ordering Minnesota Power to change certain street lights
R. 69-1030A	3-5-1990	Ordering Minnesota Power to change certain street lights
R. 98-0407	4-6-1998	Granting the transfer of a cable television franchise from Midcontinent Cable Systems Company of Minnesota to Savage Communications, Inc.

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<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	5-4-1998	Granting a renewed cable television system franchise to Midcontinent Cable Systems Company of Minnesota
76	11-5-2007	Granting an electricity distribution and transmission franchise to Minnesota Power
30A	3-3-2014	Granting a natural gas distribution franchise to Minnesota Energy Resources, a subsidiary of Integrys Energy Group

**TABLE II: BOUNDARY EXTENSIONS**

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
64	2-7-1994	Extending the corporate boundaries (60 acres more or less)





**TITLE I: GENERAL PROVISIONS**

Chapter

**10. RULES OF CONSTRUCTION; GENERAL PENALTY**



## CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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- 10.03 Application to future ordinances
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- 10.98 Administrative offenses
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### § 10.01 TITLE OF CODE.

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

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

## § 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

## § 10.03 APPLICATION TO FUTURE ORDINANCES.

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

## § 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

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

**CLERK/TREASURER.** The Clerk/Treasurer of the City of Verndale, Minnesota.

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

**COUNCIL.** The City Council of the City of Verndale.

**COUNTY.** The County of Wadena, Minnesota.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

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

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

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

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

**SHALL.** The act referred to is mandatory.

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

**STATE.** The State of Minnesota.

**SUBCHAPTER.**

(a) 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.

(b) Not all chapters have **SUBCHAPTERS**.

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

**YEAR.** A calendar year, unless otherwise expressed.

**§ 10.06 SEVERABILITY.**

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

**§ 10.07 REFERENCE TO OTHER SECTIONS.**

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

**§ 10.08 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of 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.

**§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same

effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

**§ 10.10 OFFICIAL TIME.**

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

**§ 10.11 REASONABLE TIME.**

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

(B) (1) 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.

(2) If the last day is a legal holiday or a Sunday, it shall be excluded.

**§ 10.12 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.

**§ 10.13 ORDINANCES UNAFFECTED.**

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

**§ 10.14 EFFECTIVE DATE OF ORDINANCES.**

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

**§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.**

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

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

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

**§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

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

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

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

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

**§ 10.18 COPIES OF CODE.**

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



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

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

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

**§ 10.20 ENFORCEMENT.**

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

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

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

(D) If the licensee, owner, resident or other person in control of a premises objects to the inspection of or entrance to the property, the city's Clerk/Treasurer, peace officer or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) Every licensee, owner, resident or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the city's Clerk/Treasurer or any other authorized city officer or employee only to determine whether the provisions of this code enacted

to protect the health, safety and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or city service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the city's Clerk/Treasurer to object to the termination before it occurs, subject to appeal of the Clerk/Treasurer's decision to the City Council at a regularly scheduled or special meeting.

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

#### § 10.98 ADMINISTRATIVE OFFENSES.

(A) *Purpose.* Administrative offense procedures established pursuant to this section are intended to provide the public and the city with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain city ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provide for thereafter, the individual may withdraw from participation in the procedures, in which event the city may bring criminal charges in accordance with law. Likewise, the city, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures, but does not pay the monetary penalty which may be imposed, the city will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

(B) *"Administrative offense" defined.* An **ADMINISTRATIVE OFFENSE** is a violation of a provision of the city ordinance and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in division (I) below.

(C) *Notice.* Any officer of the city's Police Department or any other person employed by the city, and having authority to enforce the city ordinance, shall upon determining that there has been a violation, notify the violator or, in the case of a vehicular violation, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice and the amount of the scheduled penalty.

(D) *Payment.* Once such notice is given, the alleged violator may, within seven days of the time of the issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereinafter. The penalty may be paid in person or by mail and payment shall be deemed to be an admission of the violation.

(E) *Hearing*. Any person contesting an administrative offense pursuant to this section may, within seven days of the time of issuance of the notice, request a hearing by a Hearing Officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The Hearing Officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the Hearing Officer, the violator shall pay the penalty imposed within seven days.

(F) *Hearing Officer*. The Mayor shall designate, in writing, a Hearing Officer. The Hearing Officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this section and may be compensated by the city for such hearings and related findings.

(G) *Failure to pay*. In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the Hearing Officer, no such charge may be brought by the city for the same violation.

(H) *Disposition of penalties*. All penalties collected pursuant to this section shall be paid to the city and deposited in the General Fund.

(I) *Offenses and penalties*. Offenses which may be charged as administrative offenses and the penalties for such offenses shall be established by resolution of the City Council from time to time. Copies of such resolution shall be maintained in the office of the city's Clerk/Treasurer.  
(Ord. 73, passed 5-5-2003)

#### **§ 10.99 GENERAL PENALTY AND ENFORCEMENT.**

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

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

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

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

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

**ORDINANCE NO. 1**

**CITY OF VERNDALE  
STATE OF MINNESOTA**

**AN ORDINANCE ENACTING A CODE OF ORDINANCE FOR THE  
CITY OF VERNDALE, MINNESOTA,  
AMENDING, RESTATING, REVISING, UPDATING, CODIFYING AND COMPILING  
CERTAIN ORDINANCES OF THE CITY DEALING WITH THE SUBJECTS  
EMBRACED IN THE CODE OF ORDINANCES, AND PROVIDING PENALTIES FOR  
THE VIOLATION OF THE CODE OF ORDINANCES.**

**WHEREAS** Minnesota Statutes Sections 415.02 and 415.021 authorize the city to cause its ordinances to be codified and printed in a book,

**NOW THEREFORE** the City Council of the City of Verndale, Minnesota, ordains:

**Section 1.** The general ordinances of the City as amended, restated, revised, updated, codified and compiled in book form, including penalties for the violations of various provisions thereof, are hereby adopted and shall constitute the "Code of Ordinances of the City of Verndale, MN." This Code of Ordinances also adopts by reference certain statutes and administrative rules of the State of Minnesota as named in the Code of Ordinances.

**Section 2.** The Code of Ordinances as adopted in Section 1 shall consist of the following titles:

TITLE I: GENERAL PROVISIONS  
TITLE III: ADMINISTRATION  
TITLE V: PUBLIC WORKS  
TITLE VII: TRAFFIC CODE  
TITLE IX: GENERAL REGULATIONS  
TITLE XI: BUSINESS REGULATIONS  
TITLE XIII: GENERAL OFFENSES  
TITLE XV: LAND USAGE  
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**Section 3.** All prior ordinances, pertaining to the subjects treated in the Code of Ordinances, shall be deemed repealed from and after the effective date of this ordinance, except as they are included and re-ordained in whole or in part in the Code of Ordinances; provided, this repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall this repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or 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, vacating or setting the boundaries of streets or other public places; nor shall this repeal affect any other ordinance of a

temporary or special nature or pertaining to subjects not contained in or covered by the Code of Ordinances. All fees established in prior ordinances codified in this Code shall remain in effect unless amended in this code or until an ordinance adopting a fee schedule is adopted or amended.

**Section 4.** This ordinance adopting the Code of Ordinances shall be a sufficient publication of any ordinance included in it and not previously published in the City's official newspaper. The Clerk of the City shall cause a substantial quantity of the Code of Ordinances to be printed for general distribution to the public at actual cost and shall furnish a copy of the Code of Ordinances to the County Law Library or its designated depository. The official copy of this Code of Ordinances shall be marked and be kept in the office of the City Clerk.

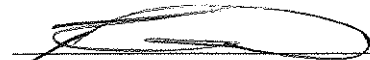
**Section 5.** The Code of Ordinances is declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by Minnesota Statutes by the Courts of the State of Minnesota.

**Section 6.** This ordinance adopting the Code of Ordinances, and the Code of Ordinances itself, shall take effect upon publication of this ordinance in the City's official newspaper.

PASSED BY THE CITY COUNCIL OF THE CITY OF VERNDALE, MINNESOTA THIS 14<sup>TH</sup> DAY OF JUNE, 2021.

APPROVED:

ATTEST:

  
\_\_\_\_\_  
(Signature) 6-14-2021

  
\_\_\_\_\_  
(Signature)

Tara Erckenbrack  
\_\_\_\_\_  
(Mayor) (Date)

Melissa Current  
\_\_\_\_\_  
(City Clerk/Treasurer) 6-14-21  
(Date)

### **TITLE III: ADMINISTRATION**

Chapter

- 30. OFFICERS AND EMPLOYEES**
- 31. ORGANIZATIONS**
- 32. EMERGENCY MANAGEMENT**
- 33. GENERAL ADMINISTRATIVE POLICIES**





## CHAPTER 30: OFFICERS AND EMPLOYEES

### Section

- 30.01 City elections
- 30.02 Council salaries
- 30.03 Criminal history background checks for employees

### **§ 30.01 CITY ELECTIONS.**

(A) All elections of the city officers shall thereafter be held and conducted under “Australian ballot system”, as provided by law for city elections in the state.

(B) As provided by M.S. § 205.07, as it may be amended from time to time, the regular city election shall be held biannually on the first Tuesday after the first Monday in November in every even-numbered year, beginning with the election to be held in 1978.

(Ord. 1, passed - -; Ord. 43, passed 12-22-1977)

### **§ 30.02 COUNCIL SALARIES.**

The salaries of Council members shall be as set from time to time by the city.  
(Ord. 65, passed 10-3-1994)

### **§ 30.03 CRIMINAL HISTORY BACKGROUND CHECKS FOR EMPLOYEES.**

Background checks for city employees shall be conducted as follows.

(A) *Criminal history background.* The city’s Police Department is required to do a state criminal history background investigation on applicants for positions with the city. This section applies only to applicants who are finalists for paid positions. Before the investigation is undertaken, the applicant must authorize the city’s Police Department in writing to undertake the investigation and authorize to release the information to the City Council and/or other city staff as deemed necessary and appropriate for further employment consideration.

(B) *Employment consideration.* Except in the case of exceptions set forth in M.S. § 364.09, as it may be amended from time to time, should the city reject the applicant's request for employment due partially or solely to the applicant's prior conviction of a crime, the city's Clerk/Treasurer shall notify the applicant in writing of the following:

- (1) The grounds and reasons for denial;
  - (2) The applicant complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;
  - (3) The earliest date the applicant may reapply for employment with the city; and
  - (4) All competent evidence of rehabilitation will be considered upon reapplication.
- (Ord. 77, passed 9-7-2010)

## CHAPTER 31: ORGANIZATIONS

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- 31.01 Background and findings
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- 31.03 Limits of powers
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- 31.24 Assistant Chief
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- 31.26 Compensation
- 31.27 Fire protection outside city limits
- 31.28 Emergency protection services; fees

### ***ECONOMIC DEVELOPMENT AUTHORITY***

#### **§ 31.01 BACKGROUND AND FINDINGS.**

(A) The city is authorized by M.S. Ch. 469 (the “Act”), and specifically M.S. § 469.091, as they may be amended from time to time, to establish an Economic Development Authority (the “EDA”) to coordinate and administer economic development and redevelopment plans and programs of the city.

(B) It is found and determined by the City Council that the encouragement and financial support of economic development and redevelopment in the city is vital to the orderly development and financing of the city and in the best interests of the health, safety, prosperity and general welfare of the citizens of the city.

(C) It is further found and determined that the economic development and redevelopment of the city can be accomplished by the establishment of an EDA as authorized by the Act.

(D) The City Council has, in accordance with the Act and M.S. § 469.093, as it may be amended from time to time, provided public notice and conducted a public hearing on 8-5-1996 concerning the establishment of an Economic Development Authority, at which hearing all persons desiring to express their views were heard.

(Res. 96-0805A, passed 8-5-1996)

### **§ 31.02 ESTABLISHMENT; MEMBERS.**

(A) The Economic Development Authority of the city (EDA) is hereby established. The EDA is a public body corporate and politic and a political subdivision of the state.

(B) The EDA shall have all the powers, duties and responsibilities set forth in M.S. §§ 469.029 to 469.108 of the Act, as they may be amended from time to time, and all other applicable laws, except as limited by this subchapter.

(C) The EDA shall consist of a governing body of five Commissioners. Two of the Commissioners shall be members of the City Council. All Commissioners shall be appointed by the Mayor with the approval of the City Council. Those initially appointed shall be appointed for terms of two, three, four, five and six years respectively. Thereafter, all Commissioners shall be appointed for six-year terms. A vacancy is created in the membership of the commission when a City Council member of the Authority ends Council membership.

(D) The EDA shall elect a President, Vice President, Treasurer and Secretary annually. A Commissioner must not serve as President and Vice President at the same time, but the other offices may be held by the same member. The office of the Secretary need not be held by a member.

(E) The EDA shall designate an executive director or other staff to fulfill the obligations of its day-to-day business.

(Res. 96-0805A, passed 8-5-1996)

### **§ 31.03 LIMITS OF POWERS.**

(A) The following limits shall apply to the Economic Development Authority of the city and its operations.

(1) The sale of all bonds or other obligations issued by the EDA shall be first approved by the City Council.

(2) The EDA shall follow the budget process for city departments as may be provided by the city and in accordance with city policies.

(3) Development and redevelopment plans of the EDA shall be consistent with the city's development objectives and plans.

(4) The EDA shall obtain approval of its proposed plans for development and redevelopment from the City Council.

(B) This subchapter may be modified to make any changes as authorized by the Act.

(C) As proved in the Act, it is the intention of the City Council that nothing in this subchapter, nor any activities of the EDA, shall be construed to impair the obligations of the city under any of its contracts or to affect in any detrimental manner the rights and privileges of a holder of a bond or other obligation heretofore issued by the city. The City Council shall not modify any limit in effect at the time any bonds or obligations are issued or contracts executed to the detriments of the holder of the bonds or obligations or any contracting party.

(Res. 96-0805A, passed 8-5-1996)

#### **§ 31.04 TRANSFER OF AUTHORITY.**

(A) (1) Pursuant to the authorization of M.S. § 469.094, as it may be amended from time to time, the city does, by this subchapter, hereby transfer to the Economic Development Authority of the city established by this subchapter, all activities, programs, operations and authority of the existing City Tax Increment Financing Program (TIF), including the transfer of the control, authority and operation of any project as defined in M.S. § 469.174, subd. 8, as it may be amended from time to time, or any other program or project authorized by M.S. §§ 469.001 to 469.047 or 469.124 to 469.133, as they may be amended from time to time, located within the city. The EDA shall exercise all of the powers that an HRA could exercise.

(2) This transfer of authority to the EDA shall be effective 9-1-1996.

(B) The EDA shall covenant and pledge to perform the terms, conditions and covenants of the bond indenture or other agreements executed for the security of any bonds issued by the city related to its Economic Development and/or TIF Program. The EDA shall exercise all of the powers necessary to perform the terms, conditions and covenants of any indenture or other agreements executed for the security of the bonds and shall become obligated on any such bonds by reason of the transfer as provided in this subchapter.

(Res. 96-0805A, passed 8-5-1996)

#### **§ 31.05 IMPLEMENTATION.**

(A) The City Council shall from time to time adopt such ordinances and resolutions as are required and permitted by the Act to give full effect to this subchapter.

(B) The Mayor, the city's Clerk/Treasurer and other appropriate city officials are authorized and directed to take the actions and execute and deliver the documents necessary to give full effect to this subchapter.

(Res. 96-0805A, passed 8-5-1996)

### ***VOLUNTEER FIRE DEPARTMENT***

#### **§ 31.20 ESTABLISHMENT.**

There is hereby established in the city a Volunteer Fire Department, consisting of a membership of not less than 12, nor more than 22, including the following officers: Chief; Assistant Chief; Secretary and Treasurer.

(Ord. 29, passed 5-6-1963)

#### **§ 31.21 CHIEF OF FIRE DEPARTMENT; DUTIES.**

(A) *Election (appointment)*. The Chief of the Fire Department, the Assistant Chief, the Secretary and Treasurer shall be elected annually from the membership and by the members of the Fire Department subject to confirmation by the Council. The office of Secretary and Treasurer may be held by the same member. Each shall hold office for one year and until his or her successor has been duly elected; provided, however, that, any officer may be removed during his or her term of office by the Council for cause and after a public hearing. New firefighters may be appointed to the Department on passing satisfactory mental and physical examinations, and the appointments confirmed by the Council. Firefighters may continue as members of the Department during good behavior and may be removed by the Council only for cause and after a public hearing.

(B) *Duties of Chief*. The Chief shall be custodian of all equipment and shall have control over all the firefighting apparatus, and he or she shall be loosely responsible for its care and condition. He or she shall make a report, annually, and at such other times as requested, to the Council. The annual report shall be submitted to the Council for its September meeting, and shall show the condition of all equipment and needs of the Fire Department. The Chief may submit such additional reports and recommendations at any meeting of the Council, and he or she shall report each suspension of any member by him or her, the duration of the suspension and his or her recommendations as to reinstatement or for removal for such, at the first meeting of the Council following such disciplinary action. The Chief shall be responsible for the proper training and discipline of the members of the Fire Department, and may suspend any member for refusal or neglect to obey orders pending final action by the Council on his or her report retention or discharge.

(Ord. 29, passed 5-6-1963)

**§ 31.22 RECORDS.**

The Chief and the Secretary shall each keep in convenient form a complete record of all fires. Such record shall include the time of the alarm, location of the fire, cause of the fire, type of building, value of contents, members of the Department responding to the alarm, the name of the acting Chief and such other information as he or she may see advisable, or as may be required from time to time by the Council or the state's Insurance Department.

(Ord. 29, passed 5-6-1963)

**§ 31.23 PRACTICE DRILLS.**

It shall be the duty of the Chief, when the weather permits, to hold a monthly practice drill of at least one-hour duration for the Fire Department and to give the firefighters instruction in approved methods for fighting and fire prevention.

(Ord. 29, passed 5-6-1963)

**§ 31.24 ASSISTANT CHIEF.**

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

(B) (1) Additional Assistants may be named in the discretion of the members of the Fire Department if seen advisable.

(2) In such case, Assistants shall take charge in order of rank.

(Ord. 29, passed 5-6-1963)

**§ 31.25 FIREFIGHTERS.**

All firefighters, including officers, who are presently serving on the Fire Department shall be members of the Fire Department created by this subchapter. Any new members joining the Fire Department shall be of a minimum age of 18 years. The service shall be continuous. No new members shall be considered for appointment without first passing a satisfactory mental and physical examination.

(Ord. 29, passed 5-6-1963)

**§ 31.26 COMPENSATION.**

The members and officers of the Fire Department receive compensation as the Council may from time to time, authorize and direct.

(Ord. 29, passed 5-6-1963)

**§ 31.27 FIRE PROTECTION OUTSIDE CITY LIMITS.**

(A) When any political subdivision enters into contract with the city for fire protection on property owned, leased or represented by such political subdivision, and agrees to pay for such services at the rated prescribed, the Fire Department, thereafter, shall go outside the city limits to answer fire calls or alarms for such property or properties, but in no case shall the Fire Department send apparatus to such property if the Fire Chief or other individuals in charge of the Fire Department at the time decides that it is needed for local service, and in no case shall it send more equipment or men than is anticipated in the agreement.

(B) The rates to be charged for such service shall be those fixed from time to time by resolution of the Council.

(Ord. 67, passed 11-6-1994)

**§ 31.28 EMERGENCY PROTECTION SERVICES; FEES.**

(A) *Purposes and intent.* This section is adopted for the purpose of authorizing the city to charge for fire service, as authorized by M.S. §§ 366.011, 366.012 and 415.01, as they may be amended from time to time.

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

***FIRE PROTECTION CONTRACT.*** A contract between the city and a town or other city for the city to provide fire service.

***FIRE SERVICE.*** Any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life or property in an area threatened by fire. It also includes the deployment of firefighting personnel and/or equipment or provides fire suppression, rescue, extrication and any other services related to fire and rescue as may occasionally occur.

***FIRE SERVICE CHARGE.*** The charge imposed by the city for receiving fire service.

***MOTOR VEHICLE.*** Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks, it includes semi-trailers. It does not include snowmobiles, manufactured homes, all-terrain vehicles or park trailers.

***MUTUAL AID AGREEMENT.*** An agreement between the city and a town or other city for the city's Fire Department to provide assistance to the fire department of a town or other city.



(C) *Parties affected.*

(1) Owners of property within the city who receive fire service.

(2) Anyone who receives fire service as a result of a motor vehicle accident or fire within the city.

(3) Owners of property in towns or cities to which the city provides fire service pursuant to a fire protection contract.

(D) *Rates.* The charges for service shall be set and amended from time to time by resolution of the City Council and included on the fee schedule of the city.

(E) *Billing and collection.*

(1) Parties requesting and receiving fire services may be billed directly by the city. Additionally, if the party receiving fire services did not request services, but a fire or other situation exists which, at the discretion of the Fire Department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.

(2) Parties billed for fire service will have 30 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the city will send a notice of delinquency.

(3) If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the city will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the city including, but not limited to, reasonable attorney fees and court costs.

(4) Pursuant of M.S. § 366.011, as it may be amended from time to time, if the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before November 15, of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the city all charges collected on behalf of the city. The city must give the property owner notice of its intent to certify the unpaid fire service charge by October 15.

(5) False alarms will not be billed as a fire call until the city's Fire Department and/or the city determines there should be a charge for service.

(F) *Mutual aid agreement.* When the city's Fire Department provides fire service to another fire department pursuant to a mutual aid agreement, the billing will be determined by the mutual aid agreement.

(G) *Application of collections to budget.* All collected fire charges will be designated as city funds and will be deposited into a fund, to be designated by the City Council, to offset equipment purchases and offset expenses of the city's Fire Department.

(Ord. 79, passed 7-6-2009)

## CHAPTER 32: EMERGENCY MANAGEMENT

### Section

- 32.01 Policy and purpose
- 32.02 Definitions
- 32.03 Establishment of emergency management organization
- 32.04 Powers and duties of Director
- 32.05 Local emergencies
- 32.06 Emergency regulations
- 32.07 Emergency management a government function
- 32.08 Participation in labor disputes or politics
  
- 32.99 Penalty

### § 32.01 POLICY AND PURPOSE.

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to ensure that preparations of this city will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(A) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters;

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

(C) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions; and

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

**§ 32.02 DEFINITIONS.**

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

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

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

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

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

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

**§ 32.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.**

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, called the Director. The Director shall be appointed by the City Council for an indefinite term and may be removed by the Council at any time. The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the Council. The emergency management organization shall conform to and be

consistent with, where applicable, all state and federal requirements, including the National Incident Management System framework found at 44 CFR part 201, as it may be amended from time to time.

**§ 32.04 POWERS AND DUTIES OF DIRECTOR.**

(A) The Director shall represent the city on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the 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 assure prompt and effective operation of the City Emergency Plan when a disaster occurs.

(E) The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend services and facilities to the city's emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency

personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

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

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

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

#### **§ 32.05 LOCAL EMERGENCIES.**

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the 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.  
Penalty, see § 32.99

#### **§ 32.06 EMERGENCY REGULATIONS.**

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the 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) The Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

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

Penalty, see § 32.99

**§ 32.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.**

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

**§ 32.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.**

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

**§ 32.99 PENALTY.**

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



## CHAPTER 33: GENERAL ADMINISTRATIVE POLICIES

Section

### *General Provisions*

33.01 Property line disputes

### *Data; Responsible Authority*

33.15 Appointment; authority

33.16 Rights of data subjects

33.17 Procedures for access to public, private data

## **GENERAL PROVISIONS**

### **§ 33.01 PROPERTY LINE DISPUTES.**

(A) The city will not locate property lines for residents of the city.

(B) If a resident of the city wants his, her or their property line found, it is up to the resident to either have the property surveyed or find the survey stakes themselves. If there is a dispute between two residents, the resident that questions the property line is responsible to have the area surveyed.  
(Ord. 71, passed 2-17-2000)

### ***DATA; RESPONSIBLE AUTHORITY***

### **§ 33.15 APPOINTMENT; AUTHORITY.**

The responsible authority shall require the requesting party to pay the actual cost of making, certifying and compiling copies and of preparing summary data.  
(Res. 09-0805C, passed - -1996)

**§ 33.16 RIGHTS OF DATA SUBJECTS.**

The rights of individuals on whom the data is stored or to be stored by the city are as set forth here:

(A) An individual asked to supply private or confidential data concerning the individual will be informed of:

- (1) The purpose and intended use of the requested data within the city;
- (2) Whether he or she may refuse or is legally required to supply the requested data;
- (3) Any known consequence arising from his or her supplying or refusing to supply private or confidential data; and
- (4) The identity of other people or entities authorized by state or federal law to receive the data. (This requirement does not apply when an individual is asked to supply investigative data to a law enforcement officer.)

(B) Upon request to the responsible authority, an individual will be informed:

- (1) Whether he or she is the subject of stored data on individuals; and
- (2) Whether it is classified as public, private or confidential.

(C) Upon his or her further request, an individual who is the subject of stored private data on individuals will be shown the data without any charge and, if he or she desires, will be informed of the content and meaning of that data. After an individual has been shown the private data and informed of its meaning, the data need not be disclosed to him or her for six months thereafter unless a dispute or action pursuant to this section is pending or additional data on the individual has been collected or created.

(D) The responsible authority will provide copies of data upon request by the individual subject of the data. The actual cost of providing copies will be borne by the individual.

(E) The responsible authority will comply immediately, if possible, with any request made pursuant to this section or within five days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible. If he or she cannot comply with the request within that time, he or she will so inform the individual, and may have an additional five days within which to comply with the request, excluding Saturdays, Sundays and legal holidays.

(F) (1) An individual may contest the accuracy or completeness of public or private data concerning himself or herself. To exercise this right, an individual must notify the responsible authority in writing describing the nature of the disagreement. The responsible authority will within 30 days either:

(a) Correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or

(b) Notify the individual that he or she believes the data to be correct.

(2) Data in dispute will be disclosed only if the individual's statement of disagreement is included with the disclosed data.

(Res. 09-0805C, passed - -1996)

**§ 33.17 PROCEDURES FOR ACCESS TO PUBLIC, PRIVATE DATA.**

(A) *General.* All requests to examine, for copies or for summary data, must be in writing and signed by the requesting party. Requests should be directed to the responsible authority. All requests to inspect data will be limited to normal business hours of the city. Every attempt will be made to comply with requests in an appropriate and prompt manner as specified by these procedures and by the state's Government Data Practices Act, being M.S. Chapter 13.

(B) *Examination of the data.*

(1) *Public data.* Any person upon request to the responsible authority may examine public government data without charge.

(2) *Private or non-public data.*

(a) Examination of private or nonpublic government data is available without charge only to:

1. The subject of the data;
2. People within the city whose work assignment reasonably requires access;
3. Agencies authorized by state or federal law; and
4. Agencies or individuals who have the express written consent of the subject of the

data.

(b) Any such person or agency seeking examination must identify himself or herself by presenting a Minnesota driver's license or other picture identification card acceptable to the responsible authority.

(3) *Confidential or protected non-public data.*

(a) Examination of confidential or protected non-public data is limited to:

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1. Persons within the city whose work assignment reasonably require access; and
2. Agencies or individuals authorized by state or federal law to gain access.

(b) Any such person or agency seeking examination must identify him or herself by appropriate identification acceptable to the responsible authority. The responsible authority cannot disclose the actual confidential data to the subject of the data but, upon request, shall inform the subject whether confidential data is maintained on him or her.

(c) The subject of the data may gain access to this knowledge only upon:

1. Appearance at the city office with Minnesota driver's license or other picture identification acceptable to the responsible authority; or
2. Appearance by the subject's personal representative identified by a Minnesota driver's license or other picture identification acceptable to the responsible authority and with a written and notarized authorization by the subject of the data.

(C) *Explanation of the data.* Upon request to the responsible authority, any person may receive an explanation of the content and the meaning of the data which has been received or inspected.

(D) *Copies of data.* Any person, upon request to the responsible authority, may receive copies of any data which he or she is entitled to inspect. The responsible authority will provide copies within a reasonable time after receipt of the request and charge the requesting party the actual costs of the material and any special costs necessary to produce the copies. The fee is \$0.25 per page for copies and current hourly wage for the labor involved in preparation of the data requested.

(E) *Access to summary data.* Any person, upon request to the responsible authority, will receive prepared summary data from public, private or confidential data. Within ten days of the receipt of the request, the responsible authority will inform the requesting party of the estimated costs to provide the summary data, or will provide a written statement describing a time schedule for the preparation including reasons for time delays, or will provide a written statement to the requesting party stating why the responsible authority has determined that access would compromise the private or confidential data. The responsible authority will charge the requesting party costs associated with the preparation of summary data. The responsible authority will provide an estimate of the fee to the requesting party before preparing the summary and may require payment in advance of the preparation.

(Res. 09-0805C, passed - -1996)

**TITLE V: PUBLIC WORKS**

Chapter

**50. WATER**

**51. SEWER**



## CHAPTER 50: WATER

### Section

- 50.01 Application required
- 50.02 Discontinuance of service
- 50.03 Supply from one service
- 50.04 Turning water on; capping mains
- 50.05 Repair of leaks
- 50.06 Private water supply
- 50.07 Restricted hours
- 50.08 Code requirements
- 50.09 Water service application
- 50.10 Fixing rates and charges
- 50.11 Statements for water used
- 50.12 Right of entry
- 50.13 Supervision of water system

### *Cross-reference:*

*Subdivisions and Zoning, see Ch. 150*

*Sewer, see Ch. 51*

### **§ 50.01 APPLICATION REQUIRED.**

All persons now receiving water service, and all persons who shall make an application for water service, from the city shall, upon making such application, be deemed to consent to all of the rules, regulations and rates as may thereafter be set forth and adopted by the City Council, pursuant to this chapter.

(Ord. 49, passed 8-2-1982)

### **§ 50.02 DISCONTINUANCE OF SERVICE.**

The city may discontinue service to any water consumer without notice for necessary repairs or, upon notice as provided for in § 50.05 of this chapter, for non-payment of charges or for violation of rules and regulations affecting utility service.

(Ord. 49, passed 8-2-1982)

**§ 50.03 SUPPLY FROM ONE SERVICE.**

(A) No more than one house or dwelling shall be supplied from one service connection, except by special permission of the City Council.

(B) Whenever two or more parties are supplied from one pipe connecting with a service main, each building or part of building separately supplied shall have a separate billing.

(Ord. 49, passed 8-2-1982) Penalty, see § 10.99

**§ 50.04 TURNING WATER ON; CAPPING MAINS.**

No person, except an authorized city employee, shall turn on any water supply at the stop box or tap any distributing main or pipe of the water supply system, or insert a stop cork or other appurtenance therein.

(Ord. 49, passed 8-2-1982) Penalty, see § 10.99

**§ 50.05 REPAIR OF LEAKS.**

(A) The consumer or owner shall be responsible for maintaining the service pipe from the curb box into the building served. If he or she fails to repair any leak in such service pipe within 24 hours' notice by the city, the city may turn the water off. When the waste of water is great or damage is likely to result from the leak, the city shall turn the water off immediately.

(B) The consumer or owner shall be responsible for keeping the service pipe from freezing in the winter and no adjustment of rates shall be made for the period of time that a service pipe is inoperable because of freezing.

(Ord. 49, passed 8-2-1982)

**§ 50.06 PRIVATE WATER SUPPLY.**

(A) No water pipe of the city water supply system shall be connected with any pump, well or tank that is connected with any other source of water supply.

(B) When any such connection is found, the Water Superintendent shall notify the owner to turn off the connection and, if this is not done immediately, the city shall turn off the water supply forthwith.

(C) Before any new connection to the city system is permitted, the Water Superintendent shall be certain that no cross-connection will exist when the new connection is made.

(Ord. 49, passed 8-2-1982) Penalty, see § 10.99



**§ 50.07 RESTRICTED HOURS.**

Whenever the city shall determine that a shortage of water threatens the city, 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 uses, or either or any of them. 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 the news media, specifically indicating the restrictions thereof.

(Ord. 49, passed 8-2-1982) Penalty, see § 10.99

**§ 50.08 CODE REQUIREMENTS.**

All piping, connections and appurtenances shall be installed and performed strictly in accordance with the state's Plumbing Code. Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections, shall, upon discovery by the city, be an additional ground for termination of water service to any consumer.

(Ord. 49, passed 8-2-1982)

**§ 50.09 WATER SERVICE APPLICATION.**

Application shall be made to the city on an application form provided by the city. Service shall be served only after proper application has been made and the connection fee paid in full.

(Ord. 49, passed 8-2-1982)

**§ 50.10 FIXING RATES AND CHARGES.**

All rates and charges for municipal water service, including, but not by the way of limitation, rates for service, connection fees, removal of any unlawful device, disconnection fee, reconnection fees, including penalties for non-payment, if any, shall be fixed, determined and amended by the City Council and adopted by resolution. Such resolution containing the effective date thereof shall be kept on file and open to inspection in the office of the city's Clerk/Treasurer, and shall be uniformly enforced.

(Ord. 49, passed 8-2-1982; Res. passed - -1985; Res. 99-0405B, passed 4-5-1999)

**§ 50.11 STATEMENTS FOR WATER USED.**

Statements for water used by consumers shall be sent out in the first week of the month. All utilities charges shall be delinquent if they are unpaid at the close of business on the twenty-fifth of the month; provided that, if the twenty-fifth day shall fall on a Saturday, Sunday or legal holiday, the time shall be extended to the close of business on the next succeeding day on which business is normally transacted.

A penalty, as provided by resolution of the city, shall be added to and become due to delinquency, service shall not be restored at that location until a reconnection charge has been paid for each utility reconnected, in addition to amounts owed for service and penalties. The water service may be shut off or discontinued whenever a bill remains unpaid after 60 days.

(Ord. 49, passed 8-2-1982; Ord. 49, passed 3-6-2000)

#### **§ 50.12 RIGHT OF ENTRY.**

The city shall have the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a city water service for connection therewith, at all times reasonable under the circumstances, for the purpose of inspection and repair of the water system or any part thereof, and for the purpose of connecting and disconnecting service.

(Ord. 49, passed 8-2-1982)

#### **§ 50.13 SUPERVISION OF WATER SYSTEM.**

The city water system, and all installation, addition, changes or repairs, shall be under the supervision of a Water Superintendent designated by the City Council.

(Ord. 49, passed 8-2-1982)

## CHAPTER 51: SEWER

### Section

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*Health and Sanitation; Nuisances, see Ch. 78*

*Subdivisions and Zoning, see Ch. 150*

*Water, see Ch. 50*

**GENERAL PROVISIONS****§ 51.01 DEFINITIONS.**

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

**ACT.** The Federal Water Pollution Control Act, also referred to as the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.

**ASTM.** American Society for Testing Materials.

**AUTHORITY.** The City of Verndale, Minnesota, or its representative thereof.

**BOD5 or BIOCHEMICAL OXYGEN DEMAND.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C in terms of milligrams per liter (mg/l).

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

**BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal. Also referred to as a **HOUSE CONNECTION** or **SERVICE CONNECTION**.

**CITY.** The area within the corporate boundaries of the City of Verndale, as presently established or as amended by ordinance or other legal actions at a future time. The term **CITY**, when used herein, may also be used to refer to the City Council and its authorized representative.

**COD or CHEMICAL OXYGEN DEMAND.** The quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).

**COMPATIBLE POLLUTANT.** Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS permit if the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.

**CONTROL MANHOLE.** A structure special constructed for the purpose of measuring flow and sampling of wastes.

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

**FECAL COLIFORM.** Any number or organisms common to the intestinal tract of humans and animals whose presence in sanitary sewage is an indicator of pollution.

**FLOATABLE OIL.** Oil, fat or grease in a physical state, such that it will separate by gravity from wastewater.

**GARBAGE.** Animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

**INCOMPATIBLE POLLUTANT.** Any pollutant that is not defined as a “compatible pollutant”, including non-biodegradable dissolved solids.

**INDUSTRY.** Any non-governmental or non-residential user of a publicly owned treatment works which is identified in the *Standard Industrial Classification Manual*, latest edition, which is categorized in Divisions A, B, D, E and I.

**INDUSTRIAL WASTE.** Gaseous, liquid and solid wastes resulting from industrial or manufacturing processes, trade or business, or from the development, recovery and processing of natural resources, as distinct from residential or domestic strength wastes.

**INFILTRATION.** Water entering the sewage system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections and manhole walls.

**INFILTRATION/INFLOW (I/I).** The total quantity of water from both infiltration and inflow.

**INFLOW.** Water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and areas drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.

**INTERFERENCE.** The inhibition or disruption of the city’s wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the city’s NPDES and/or SDS permit. The term includes of sewage sludge use or disposal by the city in accordance with published regulations providing guidelines under § 405 of the Act, being 33 U.S.C. § 1345, or any regulations developed pursuant to the Solid Waste Disposal Act, being 42 U.S.C. §§ 6901 et seq., the Clean Air Act, being 42 U.S.C. §§ 7401 et seq., the Toxic Substances Control Act, being 15 U.S.C. §§ 2601 et seq., or more stringent state criteria applicable to the method of disposal or use employed by the city.

**MPCA.** Minnesota Pollution Control Agency.

**NATIONAL CATEGORICAL PRETREATMENT STANDARDS.** Federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to § 307(b) of the Act, being 33 U.S.C. § 1317(b).

***NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT.*** A permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to §§ 402 and 405 of the Act, being 33 U.S.C. § 1342 and 33 U.S.C. § 1345.

***NATURAL OUTLET.*** Any outlet, including storm sewers and combined sewers, which overflow into a watercourse, pond, ditch, lake or other body of surface water or ground water.

***NON-CONTACT COOLING WATER.*** The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added, is heat.

***NORMAL DOMESTIC STRENGTH WASTE.*** Wastewater that is primarily introduced by residential users with a BOD5 concentration not greater than 250 mg/l and a suspended solids (TSS) concentration not greater than 300 mg/l.

***PERSON.*** Any individual, firm, company association, society, corporation or group.

***pH.*** The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.

***PRETREATMENT.*** The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly-owned treatment works.

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

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

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

(1) ***COLLECTION SEWER.*** A sewer whose primary purpose is to collect waste waters from individual point source discharges and connections.

(2) ***COMBINED SEWER.*** A sewer intended to serve as a sanitary sewer and a storm sewer.

(3) ***FORCE MAIN.*** A pipe in which wastewater is carried under pressure.

(4) ***INTERCEPTOR SEWER.*** A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.

(5) ***PRIVATE SEWER.*** A sewer which is not owned and maintained by a public authority.

(6) ***PUBLIC SEWER.*** A sewer owned, maintained and controlled by public authority.

(7) **SANITARY SEWER.** A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters which are not admitted intentionally.

(8) **STORM SEWER** or **STORM DRAIN.** A drain or sewer intended to carry storm waters, surface runoff, ground water, sub-surface water, street wash water, drainage and unpolluted water from any source.

**SHALL.** The act referred to is mandatory; **MAY** is permissive.

**SIGNIFICANT INDUSTRIAL USER.** Any industrial user of the wastewater treatment facility which has a discharge flow:

- (1) In excess of 25,000 gallons per average work day;
- (2) Has exceeded 5% of the total flow received at the treatment facility;
- (3) Whose waste contains a toxic pollutant in toxic amounts pursuant to § 307(a) of the Act;

or

(4) Whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality or emissions generated by the treatment system.

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

**STATE DISPOSAL SYSTEM (SDS) PERMIT.** Any permit (including any terms, conditions and requirements thereof) issued by the MPCA pursuant to M.S. § 115.07, as it may be amended from time to time, for a disposal system, as defined by M.S. § 115.01, subd. 5, as it may be amended from time to time.

**SUPERINTENDENT.** The Utilities Superintendent or a deputy, agent or representative thereof.

**SUSPENDED SOLIDS (SS) or TOTAL SUSPENDED SOLIDS (TSS).** The total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater*, latest edition, and referred to as non-filterable residue.

**TOXIC POLLUTANT.** The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards issued pursuant to § 307(a) of the Act.

**UNPOLLUTED WATER.** Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards, and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities. (See **NON-CONTACT COOLING WATER.**)

**USER.** Any person who discharges or causes or permits the discharge of wastewater into the city's wastewater disposal system.

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

**WASTEWATER TREATMENT WORKS** or **TREATMENT WORKS.** An arrangement of any devices, facilities, structures, equipment or processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or industrial wastewater or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

**WATERCOURSE.** A natural or artificial channel for the passage of water, either continuously or intermittently.

**WPCF.** The Water Pollution Control Federation.  
(Ord. 63, passed 12-4-1989)

## **§ 51.02 UTILITIES SUPERINTENDENT.**

The Utilities Superintendent shall have control and supervision of all public sewers and service connections in the city, and shall be responsible for administering the provisions of this subchapter to the end that a proper and efficient public sewer is maintained.  
(Ord. 63, passed 12-4-1989)

## **§ 51.03 DISCHARGES; CONSTRUCTION; CONNECTION REQUIREMENTS.**

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public property within the city, or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.



(B) It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter and the city's NPDES/SDS permit.

(C) Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(D) The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the city and adjacent to any street, alley or right-of-way in which there is now located, or may, in the future, be located, a public sanitary sewer of the city, shall be required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with provisions of this subchapter, within 365 days of the date said public sewer is operational; provided, said public sewer is within 200 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official 30-day notice shall be served instructing the affected property owner to make said connection.

(E) In the event an owner shall fail to connect to a public sewer in compliance with a notice given under division (D) above, the city must undertake to have said connection made and shall assess the cost thereof against the benefitted property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the county and shall be collected and remitted to the city in the same manner as assessments for local improvements. The rights of the city shall be in addition to any remedial or enforcement provisions of this subchapter.

(F) Beginning 1-1-2000, all residents of the city with sewer service will have a water meter installed to the water service to accurately measure the water sewage used.  
(Ord. 63, passed 12-4-1989; Ord. passed 9-7-1999) Penalty, see § 51.99

#### **§ 51.04 PRIVATE WASTEWATER DISPOSAL.**

(A) Where a public sewer is not available under the provisions of § 51.03(D) of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(B) Prior to commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the city. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary to the city.

(C) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the city or its authorized representative. The city or its

representative shall be allowed to inspect the work at any stage or construction and, in any event, the applicant for the permit shall notify the city when work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice.

(D) The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of 167 Minn. Rules Ch. 7080, entitled *Individual Subsurface Sewage Treatment System Standards*. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 365 days in compliance with this subchapter and, within 30 days, any septic tanks, cesspools and similar private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage and the tank or pit filled with suitable material.

(F) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the city.

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the Department of Health of the state. (Ord. 63, passed 12-4-1989) Penalty, see § 51.99

#### **§ 51.05 BUILDING SEWERS AND CONNECTIONS.**

(A) Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to, a capacity for flow, BOD5 and suspended solids, as determined by the Superintendent.

(B) No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

(C) Applications for permits shall be made by the owner or authorized agent and the party employed to do the work, and shall state the location, name of owner, street number of the building to be connected and how occupied. No person shall extend any private building drain beyond the limits of the building or property for which the service connection permit has been given.

(D) There shall be two classes of building sewer permits: for residential and commercial service; and for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications or any other information considered pertinent in the judgment of the city. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics and type of activity.

(E) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.

(F) (1) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway.

(2) The building sewer from the front building may be extended to the rear building and the whole considered one building sewer.

(3) The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

(G) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent or his or her representative, to meet all requirements of this subchapter.

(H) (1) The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling of the trench, shall all conform to the requirements of the state's Building and Plumbing Codes or other applicable rules and regulations of the city. In absence of code provisions or in the amplification thereof, the materials and regulations of the city. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF *Manual of Practice No. 9* shall apply.

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

(3) No person(s) shall make connection of roof down spouts, foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or indirectly to the wastewater disposal system.

(4) The connection of the building sewer into the public sewer shall conform to the requirements of the state's Building and Plumbing Codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF *Manual of Practice No. 9*.

(I) All such connections shall be made gas-tight and water-tight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the city prior to installation.

(J) The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the Superintendent or authorized representative thereof.

(K) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(L) No person shall make a service connection with any public sewer unless regularly licensed under this subchapter to perform such work, and no permit shall be granted to any person, except such regularly licensed person.

(M) Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the Superintendent for recommendations to the Council.

(N) The licensee will indemnify and save harmless the city from all suits, accidents and damage that may arise by reason of any opening in any street, alley or public ground, made by the licensee or by those in the licensee's employment for any purpose whatever, and that the licensee will replace and restore the street and alley over such opening to the condition existing prior to installation, adequately guard with barricades and lights and will keep and maintain the same to the satisfaction of the Superintendent, and shall conform in all respects to the rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law.

(O) The license fee for making service connections is \$25. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for cause. Upon failure to apply for a license renewal prior to the expiration date thereof, the license fee for the ensuing year shall be \$35.

(P) The Council may suspend or revoke any license issued under this section for any of the following causes:

(1) Giving false information in connection with the application for a license;

(2) Incompetence of the licensee; and/or

(3) Willful violation of any provisions of this section or any rule or regulation pertaining to the making of service connections.

(Ord. 63, passed 12-4-1989) Penalty, see § 51.99

**§ 51.06 USE OF PUBLIC SEWERS.**

(A) No person(s) shall discharge or cause to be discharged any unpolluted water such as storm water, ground water, roof runoff, surface drainage or non-contact cooling water to any sanitary sewer.

(B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the city and other regulatory agencies. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the city and upon approval and the issuance of a discharge permit by the MPCA.

(C) No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) 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, bromides, carbides, hydrides and sulfides;

(2) Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubrication oil, mud or glass grinding or polishing wastes;

(3) 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; and

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly 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 § 307(a) of the Act, being 33 U.S.C. § 1317(a).

(D) The following described substances, materials, water or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works treatment process or equipment, will not have an adverse effect on the receiving stream and/or soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Superintendent may set limitations lower than limitations established in the

regulations below if, in his or her opinion, such more sever limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability of wastes, the Superintendent will give consideration to such factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewer, nature of the sewage treatment process, the city's NPDES and/or SDS permit, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or waste waters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

(1) Any wastewater having a temperature greater than 150°F (65.6°C), or causing, individually or in combination with other wastewater, the in fluent at the wastewater treatment plant to have a temperature exceeding 104°F (40°C), or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein;

(2) Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65.6°C); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not;

(3) Any quantities of flow, concentrations or both which constitute a "slug", as defined in § 51.01 of this chapter;

(4) Any garbage not properly shredded, as defined in § 51.01 of this chapter. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food on the premises or when served by caterers;

(5) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life, or are sufficient to invent entry into the sewers for their maintenance and repair;

(6) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(7) Non-contact cooling water or unpolluted storm, drainage or ground water;

(8) Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such qualities that would cause disruption with the wastewater disposal system;

(9) Radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations;

(10) Any waters or wastes containing the following substances to such degree that any such material received in the composite wastewater at the wastewater treatment works is detrimental to the treatment processes, adversely impacts land application, adversely affects the receiving waters, or is in violation of standards pursuant to § 307(b) of the Act, being 33 U.S.C. § 1317(b). The substances are arsenic, cadmium, copper, cyanide, lead, mercury, nickel, silver, total chromium, zinc and phenolic compounds which cannot be removed by city's wastewater treatment system;

(11) Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation or ordinance of any regulatory agency or state or federal regulatory body; and

(12) Any waters or wastes containing BOD5 or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions of division (Q) below.

(E) If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in division (D) above and/or which, in the judgement of the Superintendent, may have a deleterious effect upon the wastewater treatment facilities, processes or equipment; receiving waters and/or soil, vegetation and ground water; or which otherwise create a hazard to life or constitute a public nuisance, the city may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to § 307(b) of the Act and all addendums thereof;

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

(4) Require payment to cover the added costs of handling, treating and disposing of wastes not covered by existing taxes or sewer service charges.

(F) If the city permits the pretreatment or equalization of waste flows, the design, installation and maintenance of the facilities and equipment shall be made at the owner's expense and shall be subject to the review and approval of the city pursuant to the requirements of the MPCA.

(G) No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in divisions (C) and (D) above or contained in the national categorical pretreatment standards or any state requirements.

(H) Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner(s).

(I) Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in division (D)(2) above, any flammable wastes as specified in division (C)(1) above, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collection materials not performed by the owner's personnel must be performed by a currently licensed waste disposal firm.

(J) Where required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with such necessary meters and other appurtenances in the building sewer to facilities observation, sampling and measurement of wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The structure shall be installed by the owner at his or her expense and shall be maintained by the owner to be safe and accessible at all times.

(K) (1) The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests or analyses of waters or wastes to illustrate compliance with this subchapter 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 analyses 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 federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analysis to the city at such times and in such manner as prescribed by the city. The owner shall bear the expense of all measurements, analyses and reporting required by the city reserves the right to take measurements and samples for analysis by an independent laboratory.

(2) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this subchapter with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis subject to approval by the Superintendent.

(L) Where required by the city, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this subchapter. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Superintendent for review and approval prior to construction of the facility. Review and approval of such plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the



requirements of this subchapter. Users shall notify the Superintendent immediately upon having a slug or accidental discharge of substances of wastewater in violation of this subchapter to enable countermeasures to be taken by the Superintendent to minimize damage to the wastewater treatment works. Such notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the city on account thereof under any state and federal law. Employees shall ensure that all employees who may cause or discover such a discharge, are advised of the emergency notification procedure.

(M) (1) No person, having charge of any building or other premises which drains into the public sewer, shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within 30 days after receipt of written notice from the city, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair or alter the same, and perform such other work as the Superintendent may deem necessary.

(2) Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair or alter the same after the period of 30 days, the Superintendent may cause such work to be completed at the expense of the owner or representative thereof.

(N) (1) Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause such work to be done as the Superintendent may direct.

(2) Each day after seven days that a person neglects or fails to do so act shall constitute a separate violation of this section, and the Superintendent may then cause the work to be done, and recover from such owner or agent the expense thereof by an action in the name of the city.

(O) The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times, a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

(P) In addition to any penalties that may be imposed for violation of any provision of this subchapter, the city may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge of prohibited wastes by such person, and may collect such assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the city.

(Q) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor 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.

(Ord. 63, passed 12-4-1989) Penalty, see § 51.99

**§ 51.07 DAMAGE, INJURY AND THE LIKE.**

No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor. (Ord. 63, passed 12-4-1989) Penalty, see § 51.99

**§ 51.08 USER RATE SCHEDULE FOR CHARGES.**

Each user of sewer service shall pay the charge(s) applicable to the type of service and in accordance with the provisions set forth in §§ 51.20 through 51.25 of this chapter. (Ord. 63, passed 12-4-1989)

**§ 51.09 INSPECTORS; POWERS AND AUTHORITY.**

(A) The Superintendent or other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observations, measurement, sampling and testing pertinent to the discharges to the city's sewer system in accordance with the provisions of this subchapter.

(B) The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the type and source of discharge to the wastewater collection system. An industry may withhold information considered confidential; however, the industry must establish that the revelation to the public of the information in question, might result in an advantage to competitors.

(C) While performing necessary work on private properties, the Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 51.06(I) of this chapter.

(D) The Superintendent or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. 63, passed 12-4-1989)

***SEWER SERVICE CHARGE SYSTEM*****§ 51.20 DEFINITIONS.**

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

***ADMINISTRATION.*** Those fixed costs attributable to administration of the wastewater treatment works (such as, billing and associated bookkeeping and accounting costs).

***BIOCHEMICAL OXYGEN DEMAND or BOD5.*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

***CITY.*** The area within the corporate boundaries of the City of Verndale, as presently established or as amended by ordinance or other legal actions at a future time. When used herein, the term ***CITY*** may also refer to the City Council or its authorized representative.

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

***COMMERCIAL WASTEWATER.*** Domestic wastewater emanating from a place of business as distinct from industrial wastewater.

***DEBT SERVICE CHARGE.*** A charge levied on users of wastewater treatment facilities for the cost of repaying money bonded to construct said facilities.

***EQUIVALENT RESIDENTIAL UNIT (ERU).*** A unit of wastewater volume of 220 gallons per day at a strength not greater than 250 mg/l of BOD5 and 300 mg/l of total suspended solids.

***EXTRA STRENGTH WASTE.*** Wastewater having a BOD and/or TSS greater than domestic waste, as defined herein, and not otherwise classified as an incompatible waste.

***GOVERNMENTAL USER.*** Users which are units, agencies or instrumentalities of federal, state or local government discharging normal domestic strength wastewater.

***INCOMPATIBLE WASTE.*** Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.

***INDUSTRIAL USERS*** or ***INDUSTRIES***.

(1) Entitles that discharge into a publicly-owned wastewater treatment works, liquid wastes resulting from the processes employed in industrial or manufacturing processes or from the development of any natural resources.

(a) These are identified in the *Standard Industrial Classification Manual*, 1972, Office of Management and Budget, as amended and supplemental 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;
- and
5. Division I: Services.

(b) For the purpose of this definition, domestic waste shall be considered to have the following characteristics:

1. BOD5: less than 250 mg/l; and
2. Suspended solids: less than 300 mg/l.

(2) 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 WASTEWATER.*** The liquid 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 and I manufacturers as distinct from domestic wastewater.

***INSTITUTIONAL USER.*** Users other than commercial, governmental, industrial or residential users, discharging primarily normal domestic strength wastewater (such as, non-profit organizations).

***NORMAL DOMESTIC STRENGTH WASTEWATER.*** Wastewater that is primarily produced by residential users with BOD5 concentrations not greater than 250 mg/l and suspended solids concentrations not greater than 300 mg/l. (Pond/ERU SRO (a) 1-15-1985)

**OPERATION AND MAINTENANCE.** Activities required to provide for the dependable and economical functioning of the treatment works, throughout the design or useful life, whichever is longer of the treatment works, and at the level of performance for which the treatment works were constructed. **OPERATION AND MAINTENANCE** included replacement.

**OPERATION AND MAINTENANCE COSTS.** Expenditures for operation and maintenance, including replacement.

**PUBLIC WASTEWATER COLLECTION SYSTEM.** A system of sanitary sewers owned, maintained, operated and controlled by the city.

**REPLACEMENT.** Obtaining and installing of equipment, accessories or appurtenances which are necessary during the design life or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

**REPLACEMENT COSTS.** Expenditures for replacement.

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

**SANITARY SEWER.** A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters which are not admitted intentionally.

**SEWER SERVICE CHARGE.** The aggregate of all charges, including charges for operation, maintenance, replacement, debt service and other sewer related charges that are billed periodically to users of the city's wastewater treatment facilities.

**SEWER SERVICE FUND.** A fund into which income from sewer service charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the **SEWER SERVICE FUND** will be for operation, maintenance and replacement costs; and to retire debt incurred through capital expenditure for wastewater treatment.

**SHALL.** The act referred to is mandatory; **MAY** is permissive.

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

**STANDARD INDUSTRIAL CLASSIFICATION MANUAL.** Office of Management and Budget, 1972.

**SUSPENDED SOLIDS (SS) or TOTAL SUSPENDED SOLIDS (TSS).** The total suspended matter that either floats on the surface or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater*, latest edition, and referred to as non-filterable residue.

**TOXIC POLLUTANT.** The concentration of any pollutant or combination of pollutants as defined in standards issued pursuant to § 307(a) of the Act, being 33 U.S.C. § 1317(a), which upon exposure to or assimilation into any organism will cause adverse effects.

**USER CHARGE.** A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.

**USERS.** Those residential, commercial, governmental, institutional and industrial establishments which are connected to the public sewer collection system.

**WASTEWATER.** The spent water of a community. Also referred to as **SEWAGE**. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any ground water, surface water and storm water that may be present.

**WASTEWATER TREATMENT WORKS or TREATMENT WORKS.** An arrangement of any devices, facilities, structures, equipment or processes owned or used by the city for the purpose of the transmissions, storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal or residues resulting from such treatment.

(Ord. 62, passed 12-4-1989)

## § 51.21 ESTABLISHMENT OF SYSTEM.

(A) The city hereby establishes a sewer service charge system whereby all revenue collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operations, maintenance and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.

(B) Each user shall pay its proportionate share of operation maintenance and replacement costs of the treatment works, based on the users proportionate contribution to the total wastewater loading from all users.

(C) Each user shall pay debt service charges to retire local capital costs as determined by the City Council.

(D) (1) Sewer service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a sewer service charge system developed according to the provisions of this subchapter.

(2) The sewer service charge system shall be adopted by resolution upon enactment of this subchapter.

(3) Subsequent changes in sewer service rates and charges shall be adopted by Council resolution.

(E) Revenues collected for sewer service shall be deposited in separate fund known as “The Sewer Service Fund”. Income from revenues collected will be expended to offset the cost of operation, maintenance and equipment replacement for the facility and to retire the debt for capital expenditure.

(F) Sewer service charges and the Sewer Service Fund will be administrated in accordance with the provisions of § 51.25 of this chapter.  
(Ord. 62, passed 12-4-1989)

#### **§ 51.22 DETERMINATION OF USER CLASSES.**

(A) (1) Users of the city wastewater treatment works shall be identified as belonging to one of the following user classes:

- (a) Residential;
- (b) Commercial;
- (c) Industrial;
- (d) Institutional; and
- (e) Governmental.

(2) The allocation of users to these categories for the purpose of the assessing user charges and debt service charges shall be the responsibility of the city’s Clerk/Treasurer. Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

(B) The charges assessed residential users and those users of other classes who discharge “normal domestic strength wastewater” only, can be classified as “commercial users” for the purpose of rate determination.

(C) The sewer service charge shall consist of a user charge for operation, maintenance and replacement costs, a debt service charge for recovery of local capital costs and an administration fee for recovery of administrative costs.

(D) The charges assessed residential users and those users of other classes discharging “normal domestic strength wastewater” shall be established proportionately according to billable wastewater volume. Billable wastewater volume shall be calculated as follows.

(1) *Residential users.* Billable wastewater volume for residential users shall be calculated on the basis of metered water usage.

(2) *Non-residential users.*

(a) The billable wastewater volume of non-residential users may be determined in the same manner as for residential users.

(b) The city may, at its discretion, require non-residential users to install such additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

(3) *Non-metered users.*

(a) For those users who discharge normal domestic strength wastewater, as defined in this ordinance and who do not have existing water meters, wastewater volume will be calculated on the basis of equivalent residential units (ERUs). An equivalent residential unit at a volume of 220 gallons per day will be assigned to connections according to Tables I and II of the Appendix A (attached to the ordinance codified herein).

(b) Determination of the number of ERUs assigned to a particular connection, in accordance with Tables I and II shall be the responsibility of the City Council or its authorized representative.

(c) Users may appeal the number of ERUs assigned to a particular connection by installing and maintaining, at their own expense, water meters of a type approved by the city. Such meters shall be equipped with remote registering recorders and located at an accessible site on the owner’s property. (Ord. 62, passed 12-4-1989)

### § 51.23 DETERMINATION OF CHARGES.

(A) The sewer service charge shall consist of an administration fee for the recovery of administration costs, a user charge for operation, maintenance and replacement and debt service charge for the recovery of local capital costs.

(B) These charges shall be determined as follows.

(1) *Administration fee.* The administration fee for each connection to the wastewater treatment facility shall be determined as follows: calculation of fixed quarterly fee for administration services:



$$AF = AC/(TC*Q)$$

Where:

- AF = Administration fee per connections
- AC = Annual administration budget
- TC = Total number of connections to the system
- Q = Number of quarters per year

(2) *User charge*. User charges for normal domestic strength users shall be determined as follows:

- (a) Calculation of unit cost for treatment of domestic strength wastewater:

$$UMOR = COMR-A/TBWV$$

Where:

- UOMR = Unit cost for OM&R in \$/K gallon
- COMR-A = Total annual OM&R less administration related costs
- TBWV = Total annual billable wastewater volume in K gallon

- (b) Calculation of user charge:

$$UC = UOMR * BWV$$

Where:

- UC = User charge
- UOMR = Unit cost for OM&R in \$/K gallon
- BWV = Billable wastewater volume of a particular user in K gallon

(3) *Debt service charge*. Recovery of local capital costs of the wastewater treatment facility shall be through a debt service charge calculate in a manner consistent with the user charge as follows:

- (a) Calculation of unit cost for debt service:

$$UDS = CDS/TBWV$$

Where:

- UDS = Unit cost for debt service in \$/K gallon
- CDS = Costs of annual debt service
- TBWV = Total annual billable wastewater volume in K gallon

(b) Calculation of debt service charge:

$$DC = UDS * BWV$$

Where:

DC = Debt service charge

UDS = Unit cost for debt service in \$/K gallon

BWV = Billable wastewater volume of a particular user in K gallon

(4) *Determination of sewer service charge.* The sewer service charge for a particular connection shall be determined as follows:

$$SSC = UC + DC + AF$$

Where:

SSC = Sewer service charge

UC = User charge

AF = Administration fee

DC = Debt service charge

(C) The sewer service charges established in this subchapter shall not prevent the assessment of additional charges to users who discharge wastes with concentrations greater than normal domestic strength or wastes of unusual character or contractual agreements with such users, as long as the following conditions are met.

(1) The user pays operation, maintenance and replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, and no user is charged at a rate less than that of normal domestic strength wastewater.

(2) The measurements of such wastes are conducted according to the latest edition of *Standard Methods for the Examination of Water and Wastewater* in a manner acceptable to the city as provided for in §§ 51.01 through 51.09 of this chapter.

(D) Determination of sewer service charges when loadings are in excess of those defined as normal domestic strength. The manner in which costs will be distributed, is based on the volume, BOD5 and suspended solids (TSS) contributed by each user. The estimated revenue to be generated from each user class annually is based on the following formula:

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where:

- C<sub>u</sub> = A user's charge per unit of time
- V<sub>c</sub> = Cost for transport and treatment of a unit of wastewater volume
- V<sub>u</sub> = Volume contribution from a user per unit of time
- B<sub>c</sub> = Cost for treatment of a unit of BOD5
- B<sub>u</sub> = BOD5 contribution from a user per unit of time
- S<sub>c</sub> = Cost for treatment of a unit of suspended solids
- S<sub>u</sub> = TSS contribution from a user per unit of time

(Ord. 62, passed 12-4-1989)

#### § 51.24 SEWER SERVICE FUND.

(A) (1) The city hereby established 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 established the following accounts as income and expenditure accounts within the Sewer Service Fund:

- (a) Sewer Service General Fund; and
- (b) Debt Retirement Account.

(B) 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/Treasurer separate and apart from all other funds of the city. Funds received by the Sewer Service Fund shall be transferred to the Operating and Maintenance Account, the Equipment Replacement Account and the Debt Retirement Account in accordance with state and federal regulations and the provisions of this subchapter.

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

(D) Revenue generated by the sewer service charge system sufficient for the operation and maintenance shall be held separate and apart in the Operation and Maintenance Account.

(Ord. 62, passed 12-4-1989)

**§ 51.25 ADMINISTRATION.**

The sewer service charge system and Sewer Service Fund shall be administrated according to the following provisions.

(A) (1) The city's Clerk/Treasurer shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works and shall furnish the City Council with a report of such costs annually in September.

(2) The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to this subchapter and § 204(b)(2)(A) of the Federal Water Pollution Act, (the "Clean Water Act"), as amended, being 33 U.S.C. § 1284.

(3) The city shall thereafter, but not later than the end of the year, reassess and, as necessary, revise the sewer service charge system then in use to ensure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed and to retired the construction debt.

(B) In accordance with federal and state requirements each user will be notified annually in conjunction with a regular billing of that portion of the sewer service charge attributable to operation, maintenance and replacement.

(C) In accordance with federal and state requirements, the city's Clerk/Treasurer shall be responsible for maintaining all records necessary to document compliance with the sewer service charge system adopted.

(D) (1) Bills for sewer service charges shall be rendered on a monthly basis succeeding the period for which the service was rendered and shall be due on the twenty-fifth of each month.

(2) Any bill not paid in full 60 days after the due date will be considered delinquent.

(3) At that time, the city shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty.

(4) The penalty shall be \$10 per month the bill is outstanding.

(E) (1) The owner of the premises, shall be liable to pay for the service to such premises, and the service is furnished to the premises by the city only upon the condition that the owner of the premises is liable therefor to the city.

(2) Any additional costs caused by discharges to the treatment works of toxic or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger(s) of said wastes, at no expense to the city.  
(Ord. 62, passed 12-4-1989)

## ***SEWAGE AND WASTEWATER TREATMENT***

### **§ 51.35 GOALS AND INTENT.**

This subchapter establishes minimum standards for and regulation of individual sewage treatment systems (ISTS) within the incorporated areas of the city; incorporating by reference minimum standards and requirements established by state statutes and rules of the Minnesota Pollution Control Agency; requiring permits for installation, alteration, repair or extension of ISTS in the city; establishing standards for upgrade, repair, replacement or discontinuance of use of ISTS; imposing penalties for failure to comply with these provisions; providing for enforcement of these requirements; and promoting the health, safety and welfare of the public pursuant to M.S. Ch. 115, 145A, 375, 394 and 471, specifically M.S. §§ 115.55, 145A.05, 375.51, 394.21 through 394.37 and 471.82, as they may be amended from time to time; and in furtherance of county policy stated in the Comprehensive Plan Policy and the county's Shore Land Zoning Ordinance.  
(Ord. 69, passed 2-2-1998)

### **§ 51.36 PURPOSE AND INTENT.**

The purpose of this subchapter shall be to provide minimum standards for and regulation of individual sewage treatment systems (ISTS) and septage disposal including the proper location, design, construction, operation, maintenance and repair to protect surface water and ground water from contamination by human sewage and waterborne household and commercial waste; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under M.S. Ch. 115 and 145A, as they may be amended from time to time, and Minn. Rules Ch. 7080, as amended, that may pertain to sewage and wastewater treatment.  
(Ord. 69, passed 2-2-1998)

### **§ 51.37 PERMITS; LICENSE REQUIREMENTS.**

(A) *Standards adopted by reference.* The county hereby adopts, by this reference, Minn. Rules parts 7080.0010 to 7080.0315 (and 7080.0910), as now constituted and from time to time amended.

(B) *Permits*. No person shall install, alter, repair or extend any individual sewage treatment system in the city without first applying for and obtaining a permit from the Zoning Administrator and at the same time paying a fee as listed in the fee schedule of Ch. 150 of this code of ordinances. Such permit shall be valid for a period of 12 months from the date of issuance.

(C) *License requirements*. No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of on-site individual sewage treatment systems without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency, except as provided under Minn. Rules part 7080.0700, subpart 1.

(D) *Failing septic systems*. A notice of non-compliance shall be issued and copies provided to the property owner and to the county within 30 days under the following conditions.

(1) A failing ISTS shall be upgraded, replaced or its use discontinued within one year. The Department will give consideration to weather conditions as it establishes compliance dates.

(2) An ISTS posing an imminent threat to public health or safety shall be upgraded, replaced or repaired, or its use discontinued, within an appropriate time no greater than ten months.

(E) *Additional soil treatment area requirements*. On all lots created after 1-23-1996, the system design shall include at least one designated additional soil treatment area which can support a standard soil treatment system.

(Ord. 69, passed 2-2-1998)

#### **§ 51.99 PENALTY.**

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

(B) (1) Any person found to be violating any provisions of §§ 51.01 through 51.09 of this chapter shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in division (B)(1) above shall be penalized in the amount not exceeding \$1,000 for each violation. Each day in which any such violation occurs shall be deemed as a separate offense.

(3) Any person violating any of the provision of §§ 51.01 through 51.09 of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of such violation.

(C) (1) Each and every sewer service charge levied by and pursuant to §§ 51.20 through 51.25 of this chapter is hereby made a lien upon the lot or premises served, and all such charges which are on September 1 of each year past due and delinquent, shall be certified to the County Auditor as taxes or assessments on the real estate. Nothing in §§ 51.20 through 51.25 of this chapter shall be held or construed as in any way stopping or interfering with the right of the city to levy as taxes or assessments against any premises affected by any delinquent or past due sewer service charges.

(2) As an alternative to levying a lien, the city may, at its discretion, file suit in a civil action to collect such amounts as are delinquent and due against the occupant, owner or user of the real estate, and shall collect as well all attorney's fees incurred by the city in filing the civil action. Such attorney's fees shall be fixed by order of the court.

(3) 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 serviced by the treatment works shall be liable for interest upon all unpaid balances at the rate of 10% per annum.

(D) (1) Any person who violates any of the provisions of §§ 51.35 through 51.37 of this chapter or who makes any false statement on a certificate of compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both, as defined by law.

(2) In the event of a violation of §§ 51.35 through 51.37 of this chapter, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

(Ord. 62, passed 12-4-1989; Ord. 63, passed 12-4-1989; Ord. 69, passed 2-2-1998)





**TITLE VII: TRAFFIC CODE**

Chapter

- 70. TRAFFIC AND PARKING RULES**
- 71. RECREATIONAL VEHICLES**
- 72. PARKING SCHEDULES**



## CHAPTER 70: TRAFFIC AND PARKING RULES

### Section

- 70.01 State law adopted
- 70.02 General operation; speed limits
- 70.03 Dynamic and Jake brakes
- 70.04 Unreasonable acceleration
- 70.05 Turning movements
- 70.06 Parking during winter months
  
- 70.99 Penalty

### **§ 70.01 STATE LAW ADOPTED.**

The regulatory provisions of M.S. Ch. 169, as it may be amended from time to time, known as the Highway Traffic Regulation Act, are hereby adopted as traffic ordinance regulating the use of highways, streets and alleys within the city and are hereby incorporated in and made a part of this traffic code as completely as if set out here in full.

(Ord. 37, passed 7-19-1971)

### **§ 70.02 GENERAL OPERATION; SPEED LIMITS.**

(A) No person shall operate a motor vehicle within the city who is under the age of 15 years, unless accompanied at the time by a duly licensed chauffeur, the owner or by a competent person over 15 years of age authorized by the owner of the motor vehicle being operated; provided that, such owner must be 15 years of age or over.

(B) Any person who drives any motor vehicle within the city in willful and wanton disregard of the rights or safety of others, and in a manner so as to endanger or be likely to endanger any person, shall be guilty of a violation of this section.

(C) Any person driving a motor vehicle within the city shall drive at a speed not greater than is reasonable and proper, having due regard to the traffic, the surface and width of the highway and of any other existing circumstances.

(D) No person shall operate a motor vehicle within the city at speeds exceeding those hereinafter specified:

(1) Fifteen mph when passing a school during the school recess or while children are going to or leaving school during opening or closing hours;

(2) Fifteen mph on all streets within the city where traffic is congested;

(3) Twenty mph on all streets within the city limits, except on truck highways; and

(4) The maximum speed on truck highways permitted by state law as posted on said truck highways within the city limits.

(E) (1) No person shall operate a motor vehicle on any paved street within the city limits and no person shall operate a motor vehicle over and across any concrete crosswalk within the city, which vehicle is equipped with a tire which shall have on its periphery any block, stud, flange, cleat, spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire; except that, it shall be permissible to use farm machinery with tires having protuberances which will not materially injure the said street or crosswalk, and also that it shall be permissible to use tires with chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid or slide.

(2) Persons operating a motor vehicle over pavement which conflict with this section may place planks upon pavement to protect the same.

(Ord. 24, passed 7-20-1953) Penalty, see § 70.99

### § 70.03 DYNAMIC AND JAKE BRAKES.

(A) A *DYNAMIC BRAKE/JAKE BRAKE* is an auxiliary braking system commonly installed on heavy trucks. The system uses engine compression to slow the vehicle and emits a loud rumbling noise when employed. The system was originally intended for use in mountainous terrain and/or on steep downhill grades.

(B) (1) The City Council believes that using a dynamic braking system is unnecessary on the gentle terrain encompassing the city.

(2) The Council believes that trucks should be able to safely slow and/or stop in non-emergency situations with their primary braking system.

(3) Dynamic brakes emit a loud and unpleasant noise and their use is hereby prohibited in the city, except in emergency situations where a primary braking system fails.

(Ord. 70, passed 8-2-1999) Penalty, see § 70.99

**§ 70.04 UNREASONABLE ACCELERATION.**

(A) Unreasonable acceleration of any motor vehicle on any public or private road, street, alley or way within the city, as “unreasonable acceleration” is hereafter defined, is hereby declared to be a public nuisance and is prohibited.

(B) *UNREASONABLE ACCELERATION OF A MOTOR VEHICLE* is hereby defined as acceleration without apparent reason, and accomplished in such a manner as to cause squealing or screeching sounds by the tires or the throwing of sand or gravel by the tires of said vehicle or both. The throwing of sand or gravel or the squealing or screeching sound emitted by the tires shall be prima facie evidence of such unreasonable and unnecessary acceleration.

(C) No person shall operate any motor vehicle in such a manner as to cause unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping or in such manner as to simulate sway or turn abruptly, or to impede traffic.

(Ord. 39, passed 11-5-1973) Penalty, see § 70.99

**§ 70.05 TURNING MOVEMENTS.**

No vehicle shall be turned so as to proceed in the opposite direction upon any highway or street, except within an intersection. An *INTERSECTION* means the area embraced within the prolonged or connection of the lateral curb homes or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles.

(Ord. 37, passed 7-19-1971) Penalty, see § 70.99

**§ 70.06 PARKING DURING WINTER MONTHS.**

No person shall park any vehicle on any street so as to obstruct or hinder or interfere in any way with the plowing of snow. Any vehicle parked on any street in the city in violation hereof may under the direction of any police officer, or the Street Supervisor, be removed to another parking location or to a garage. If said vehicle is moved to a garage, the cost of moving and storage shall be paid by the owner.

(Ord. 32, passed 10-6-2014) Penalty, see § 70.99

**§ 70.99 PENALTY.**

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

(B) Any violation of the statutes adopted by reference in § 70.01 of this chapter is a violation of § 70.01 of this chapter when it occurs within the city. Any person, thus violating any provision of §§ 70.01 and/or 70.05 of this chapter and Ch. 72, Schedule I, of this code of ordinances, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$300 or imprisonment for a period not to exceed 90 days. A person violating the state's Highway Traffic Regulation Act shall apply to a person convicted of the same offense under § 70.01 of this chapter.

(C) Any person violating any of the provisions of § 70.02 of this chapter shall, upon conviction thereof, be punished by a fine of not more than \$100, and the costs of prosecution, or by imprisonment for not more than three months.

(D) Any person violating the provisions of § 70.03 of this chapter is guilty of a petty misdemeanor.

(E) Any person violating any provision of § 70.04 of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed \$300 or by imprisonment in the county jail for a period not to exceed 90 days, or both.

(F) Any person violating any provision of § 70.06 of this chapter shall, upon conviction thereof, be punished by a fine not to exceed \$100 and the costs of prosecution, or by imprisonment for not more than three months.

(Ord. 24, passed 7-20-1953; Ord. 39, passed 11-5-1973; Ord. 70, passed 8-2-1999)

## CHAPTER 71: RECREATIONAL VEHICLES

Section

### *General Provisions*

- 71.01 Toy vehicles
- 71.02 Bicycles on sidewalks

### *Snowmobiles*

- 71.15 Definitions
- 71.16 Limitations
- 71.17 Crossings
- 71.18 Application
- 71.19 Age limits
- 71.20 Reckless driving
- 71.21 Equipment requirements
- 71.22 Exceptions
  
- 71.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 71.01 TOY VEHICLES.**

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

***DOWNTOWN AREA.*** The following named streets: First Avenue South, Second Avenue South, and Third Avenue South between Brown Street and Farwell Street; South Brown Street between First Avenue South and Third Avenue South; and South Farwell Street between First Avenue South and Third Avenue South.

***ROLLER SKATES.*** A shoe with wheels attached or a device with wheels which is designed to be attached to a shoe. For purposes of this section, the term ***ROLLER SKATES*** shall include ***ROLLER BLADES***.

**SKATEBOARDS.** A wheeled, self-propelled device designed to transport a rider in a standing position, which device is not otherwise secured to a rider's foot or shoes.

(B) (1) It is unlawful for any person to operate, propel or ride a skateboard or roller skates upon any public sidewalk, street or parking lot in the "downtown area" of the city.

(2) It is unlawful for any person to operated, propel or ride a skateboard or roller skates on or within that portion of any state trunk highway, county state-aid highway or county highway designed for vehicular traffic.

(3) The operation of bicycles will be enforced according to M.S. § 169.222, as it may be amended from time to time.

(Ord. 6A, passed 9-5-1995) Penalty, see § 71.99

#### **§ 71.02 BICYCLES ON SIDEWALKS.**

Any boy or girl caught riding his or her bicycle on the walks of the city will be punished by not being able to use his or her bicycle for one month.

(Ord. 6, passed 11-5-1954) Penalty, see § 71.99

### ***SNOWMOBILES***

#### **§ 71.15 DEFINITIONS.**

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires otherwise.

**OPERATE.** To ride in or on and control the operation of a snowmobile.

**OPERATOR.** Every person who operates or is in actual physical control of a snowmobile.

**OWNER.** A person, other than a lien holder, having the property in or title to a snowmobile and is entitled to the use or possession thereof.

**PERSON.** Includes an individual, partnership, corporation, the state and its agencies and subdivision, and an body of persons, whether incorporated or not.

**SNOWMOBILE.** A self-propelled vehicle designed for travel on snow or ice or natural terrain steered by wheels skis, or runners.

(Ord. 35B, passed 12-30-1969)



**§ 71.16 LIMITATIONS.**

Except as herein specifically permitted and authorized, it is unlawful for any person to operate a snowmobile within the limits of the city:

(A) On the portion of any right-of-way of any public highway, street, road, trail or alley used for motor vehicle travel, except the most right hand lane (except in passing) which is used for vehicle traffic in the same direction, other than on freeways, interstate, trunk, county state-aid or county highways. Snowmobiles may also be operated upon the ditch bottom or outside of trunk, county state-aid and county highways are so configured within the corporate limits;

(B) On public sidewalk provided for pedestrian travel;

(C) On private property of another without specific permission of the owner or person in control of said property;

(D) Within a one block radius on any city public school from 8:00 a.m. until 4:00 p.m. on any day that school is in session;

(E) Within a one block radius of any church on Sunday mornings from 7:00 a.m. until 12:00 p.m.;

(F) Within the city limits between the hours of 10:00 p.m. until 7:00 p.m. unless returning from an out of town area or unless an emergency exists;

(G) On Farwell Street from First Avenue to Second Avenue from 8:00 a.m. until 6:00 p.m.; and

(H) On any city park except Anderson Baseball Park, on the football field or school grounds east of the school building. On any other public place except as may be specifically permitted by other provisions of this code of ordinances.

(Ord. 35B, passed 12-30-1969) Penalty, see § 71.99

**§ 71.17 CROSSINGS.**

A snowmobile may make a direct crossing of a street or highway except an interstate highway or freeway, provided:

(A) The crossing is made at an angle of approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;

(B) The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way;

(C) The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and

(D) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.  
(Ord. 35B, passed 12-30-1969)

#### **§ 71.18 APPLICATION.**

The city traffic ordinance shall apply to the operation of snowmobiles upon streets and highways, except for those relating to required equipment, and except those which by their nature have no application.  
(Ord. 35B, passed 12-30-1969)

#### **§ 71.19 AGE LIMITS.**

No person under 14 years of age shall operate on streets of the roadway surface of highways or make a direct crossing of a trunk, county state-aid, county highway, or city street as the operator of a snowmobile. A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile on streets and highways as permitted under this subchapter and make a direct crossing of such streets and highways only if he or she has in his or her immediate possession a valid snowmobile safety certificate issued by the commissioner, as provided by M.S. § 84.872, as it may be amended from time to time. It shall be unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this subchapter.  
(Ord. 35B, passed 12-30-1969) Penalty, see § 71.99

#### **§ 71.20 RECKLESS DRIVING.**

It is unlawful for any person to operate a snowmobile within the limits of the city:

(A) At any place, while under the influence of alcohol or drugs as defined in M.S. § 169.121, as it may be amended from time to time, which is hereby incorporated by reference;

(B) At any place in a careless, reckless, or negligent manner or needless in disregard of the rights of safety of others, or in a manner so as to endanger or be likely to endanger of cause injury or damage to any person or property; and/or

(C) So as to tow any person or thing in a public street or highway except through the use of a rigid tow bar attached to the rear of the snowmobile.  
(Ord. 35B, passed 12-30-1969) Penalty, see § 71.99

**§ 71.21 EQUIPMENT REQUIREMENTS.**

It is unlawful for any person to operate a snowmobile any place within the limits of the city unless it is equipped with the following:

(A) Standard mufflers that are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cannot, bypass, straight pipe or similar device on a snowmobile motor;

(B) Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation;

(C) When operated between the hours of one-half hour after sunset to one-half hour before sunrise or at time of reduced visibility, at least one clear lamp attached to the front with sufficient intensity to reveal person and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness; and

(D) Running light of reflective material at least 16 square inches on each side, forward of the handlebars, so as to reflect or beam light at a ninety degree angle.  
(Ord. 35B, passed 12-30-1969) Penalty, see § 71.99

**§ 71.22 EXCEPTIONS.**

Notwithstanding any prohibitions in this subchapter, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when and at locations where snow upon the roadway renders travel by automobile impractical.  
(Ord. 35B, passed 12-30-1969)

**§ 71.99 PENALTY.**

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

(B) (1) A first offense of § 71.01 of this chapter is punishable by a fine of \$10.

(2) A second offense of § 71.01 of this chapter is punishable by a violator not being able to use his or her bicycle for one month.

(C) If a person is caught a second time violating § 71.02 of this chapter, he or she is punishable by a fine of \$10.

(D) Every person convicted of a violation of any of the provisions of §§ 71.16 through 71.21 shall be punished by a fine of not more than \$300 or by imprisonment for a period of not more than 90 days or both, but in either case the costs of prosecution may be added.

(Ord. 6, passed 11-5-1954; Ord. 35B, passed 12-30-1969; Ord. 6A, passed 9-5-1995)

## CHAPTER 72: PARKING SCHEDULES

### Schedule

#### I. Parking limitations and restrictions

#### **SCHEDULE I. PARKING LIMITATIONS AND RESTRICTIONS.**

(A) *Angle parking.* Angle parking shall be required on the following streets:

<i>Street</i>	<i>Location</i>	<i>Side(s)</i>
Farwell Street	Between First Avenue and Second Avenue	
First Avenue	Between Farwell and Brown	South

(B) *Truck parking.* No person shall park a commercial vehicle of more than one-ton capacity upon the following street: on Farwell Street, between First Avenue and Second Avenue; provided that, this shall not prohibit the parking of such vehicles for a period of not more than 30 minutes along any such street for the purposes of having access to any property abutting thereon.

(Ord. 37, passed 7-19-1971) Penalty, see § 70.99



## **TITLE IX: GENERAL REGULATIONS**

### Chapter

- 90. ANIMAL CONTROL**
- 91. FIRE PROTECTION AND PREVENTION**
- 78. HEALTH AND SANITATION; NUISANCES**
- 93. STREETS, SIDEWALKS AND TREES**
- 94. FAIR HOUSING**
- 95. NOISE REGULATIONS**
- 96. CEMETERIES**





## CHAPTER 90: ANIMAL CONTROL

### Section

#### *General Provisions*

90.01 Chickens; regulations

#### *Dogs*

90.15 Definitions  
90.16 Impounding and release  
90.17 Killing dogs  
90.18 Enforcement; authority  
90.19 Offenses involving tags  
90.20 Rabies; vaccinations; exceptions  
90.21 Unlawful acts  
90.22 Injured dogs  
90.23 Keeping dogs  
90.24 Kennels  
  
90.99 Penalty

#### **GENERAL PROVISIONS**

#### **§ 90.01 CHICKENS; REGULATIONS.**

(A) This set of rules shall be in effect for residentially-zoned properties throughout the city, except for properties that the county classifies as “Agricultural”.

(B) No more than five chicken hens (females) are permitted to be maintained on one property.

(C) The keeping of roosters, defined as male chickens, and crowing hens is prohibited.

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(D) All persons keeping or maintaining chickens must have a chicken coop to house the chickens and a chicken run where chickens may roam unsupervised. The coop and run must meet the following minimum requirements.

(1) Coop requirements are as follows.

(a) **COOP** is defined as a structure for the keeping or housing of chickens, as permitted by this section.

(b) A building permit is required for any chicken coop.

(c) The maximum height of a chicken coop shall be six feet.

(d) Coop shall be fully enclosed to prevent any escape by chickens or entrance by migratory birds or predators.

(2) Run requirements are as follows.

(a) **RUN** is defined as a fully-enclosed and covered area attached to a coop where chickens can roam unsupervised.

(b) Fence around the run enclosure shall be securely constructed with treated wood, ornamental iron, chain link, vinyl or brick.

(c) The maximum height of a run shall be six feet.

(d) Protective overhead netting or roofing with an approved material is required to prevent predators.

(3) Coops and runs are allowed only in a rear yard.

(4) Coops and runs must be located at least six feet away from the primary structure on the property.

(5) Coops and runs must maintain a minimum setback of ten feet from all property lines and must maintain a minimum setback of 30 feet from all inhabited structures on adjacent properties.

(E) Food material must be stored in a closed metal container to avoid pests.

(F) The enclosure and surrounding grounds shall be maintained in a clean and sanitary condition and in good repair. Flies, rodents and noxious odors shall be controlled.

(G) Manure shall not be permitted to accumulate on the property. Manure shall be removed at least once per week, but, while on the property, shall be properly stored.

(H) Chickens must not be housed in a residential house or in an attached or detached garage, except chickens under the age of six weeks for brooding purposes.

(I) Chickens must not be allowed to free range unless the yard is completely fenced in. Chickens are not allowed to roam at large. Chickens must have their wings clipped.

(J) Slaughtering and processing of chickens on the property is prohibited.

(K) (1) Dead chickens must be disposed of according to the state’s 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.

(2) Acceptable methods of chicken carcass disposal include these off-site options: incineration; rendering; or composting.

(L) The city reserves the right to require property owners to eliminate all fowl and poultry within city limits if a pandemic regarding fowl and poultry is declared.  
(Ord. 82, passed 8-10-2020) Penalty, see § 90.99

***DOGS***

**§ 90.15 DEFINITIONS.**

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

***CONTROL.*** Use of a leash, one end of which is securely fastened to a collar or other harness on a dog, and the other end of which is held securely or fastened to a person of sufficient age and discretion, unless otherwise specified, to maintain control.

***LEASH.*** A cord, thong, rope or chain not exceeding six feet in length.

***OWNER.*** Any person who owns, harbors, feeds, boards, keeps or otherwise possesses a dog, and who is the head of the household of the residence, or the owner or manager in charge of the establishment or premises at which a dog remains, or to which it returns.

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***RUNNING AT LARGE.*** Off or away from the premises of the owner and not on a leash and under the control of the owner or a member of his or her immediate family.

***VICIOUS DOG.*** A dog with a propensity to attack or bite human beings or other animals, which propensity is known or ought reasonably to be known to the owner.  
(Ord. 11, passed 6-1-1998)

**§ 90.16 IMPOUNDING AND RELEASE.**

(A) Any dog found in the city running at large or in violation of any other provision of this subchapter or required to be impounded hereunder may be placed in the dog pound, and an accurate record of the time of such placement shall be kept on each dog. Every dog so placed in the pound shall be held for redemption by the owner for a period of not less than five regular business days. A ***REGULAR BUSINESS DAY*** is one during which the pound is open for business to the public for at least four hours between 8:00 a.m. and 7:00 p.m.

(B) Upon the impounding of any dog, the owner shall be notified if known. If unclaimed, such dog shall be humanely destroyed and the carcass disposed of.

(C) Dogs shall be released to their owners, or persons previously in possession of them, upon a sworn statement of ownership and payment of impounding fees as established by City Council resolution; provided, however, that, if the owner of an impounded dog does not redeem such dog during the five regular business day period, any other person may, upon complying with the provisions of this subchapter, redeem such dog from the pound and be the lawful owner thereof.

(D) Any impounded dog shall not be released from the pound to a person until such dog has been vaccinated against rabies; provided, however, that, no dog so impounded shall be vaccinated if the owner can present a certificate of current vaccination.  
(Ord. 11, passed 6-1-1998)

**§ 90.17 KILLING DOGS.**

(A) All city police officers are hereby authorized and empowered to destroy any dog in violation of this subchapter whenever such dog cannot be safely taken up and impounded.

(B) No impounding or destruction of any dog shall exempt the owner or keeper of such dog from the penalties and fees provided by this subchapter.  
(Ord. 11, passed 6-1-1998)

**§ 90.18 ENFORCEMENT; AUTHORITY.**

(A) It is unlawful for any owner or other person to refuse to allow a police officer to examine a dog or the rabies tag on a dog under the control of said owner or other person.

(B) Each day that said owner or other person refuses to permit a police officer to examine said dog or rabies tag on a dog shall be a separate violation of this subchapter.  
(Ord. 11, passed 6-1-1998) Penalty, see § 90.99

**§ 90.19 OFFENSES INVOLVING TAGS.**

It is unlawful to counterfeit or attempt to counterfeit the tags provided for herein, or to take from any dog a tag legally placed upon it by its owners with the intention of placing it upon another dog, or to place such tag upon another dog.  
(Ord. 11, passed 6-1-1998) Penalty, see § 90.99

**§ 90.20 RABIES; VACCINATIONS; EXCEPTIONS.**

(A) Every dog six months of age and older shall be vaccinated against rabies. Young dogs shall be vaccinated within 30 days after they have reached six months of age. Unvaccinated dogs acquired or moved into the city must be vaccinated within 30 days after purchase or arrival, unless under six months of age, as specified above. Every dog shall be revaccinated at not more than 24-month intervals thereafter. A metal or durable plastic tag, serially numbered, shall be securely attached to the collar or harness of the dog. Whenever the dog is out-of-doors, whether on or off the owner's premises, the collar or harness with the vaccination tag shall be worn. The cost of rabies vaccination shall be borne by the owner of the dog.

(B) The vaccination requirements listed above shall not apply to any dog owned by a person temporarily remaining within the city for less than 30 days, or any dog brought into the city for the field trial or show purposes, nor for hunting dogs in the city for less than 30 days. Such dogs shall be kept under strict supervision of the owner. However, it is unlawful to bring any dog into the city which does not comply with the animal health laws and import regulations of the state, which are applicable to dogs.

(C) (1) When any owner of a dog has been notified that such dog has, or is suspected to have, bitten or attacked any person, he or she shall immediately place the dog under the care and observation of the city or a licensed veterinarian for a period of not less than ten days, except in those cases when a dog has bitten or attacked while on the premises of the owner and the owner has a current rabies vaccination for said dog; in which case, the city may, if it feels the facilities are adequate and if the owner is a responsible person, quarantine the dog on the owner's premises. In this case, the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of a dog that has bitten. The quarantined dog must at all times be available for inspection

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during the quarantine. At the end of the ten days' observation period, the dog shall be examined by the city and, if cleared, may be reclaimed by the owner and the owner must pay the expense incurred incident thereto. Any dog impounded or placed for observation, showing active signs of rabies, suspected of having rabies or known to have been exposed to rabies, shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis. Any dog that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

(2) Any person who shall suspect that a dog in the city is infected with rabies shall report said dog to the Police Department describing the dog and giving the name and address of the owner, if known.

(3) Any rabid dog may be destroyed by the Police Department or a veterinarian upon written authorization of a licensed veterinarian.

(Ord. 11, passed 6-1-1998) Penalty, see § 90.99

**§ 90.21 UNLAWFUL ACTS.**

(A) It is unlawful for the owner of a dog to permit such dog to run at large in the city. Whenever a dog is found running at large, the same shall constitute prima facie evidence that the owner permitted it to run at large.

(B) It is unlawful for the owner of any vicious dog to allow such dog off his or her premises unless it is muzzled, on a leash and under the control of the owner or a member of his or her immediate family over 16 years of age. Any vicious dog which is found off the premises of its owner other than as provided herein, may be seized and impounded; provided that, if the dog cannot be captured, it may be destroyed; provided further that, if the dog has been seen running at large or bites a person, the owner shall forthwith deliver the dog to the pound and he or she may be ordered to appear in court to show cause why such dog should not be destroyed.

(C) It is unlawful for the owner of a dog to suffer or permit it to disturb the peace and quiet of the city by howling, crying, barking or making any other loud or unusual noise.

(D) It is unlawful for any person to maltreat, abuse or neglect, in a cruel or inhumane manner, any dog.

(E) It is unlawful for any person to harbor or keep any stray dog. Dogs known to be strays shall be immediately reported to the Police Department.

(F) It is unlawful for any person, not acting under instructions from the owner or the city, to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any dog, with the intent to injure or destroy such dog or to willfully or maliciously place any poison or poisoned food where the same is accessible to any such dog.

(G) It is unlawful for the owner, caretaker or attendant of any dog to allow it to defecate on public or private property other than his or her own. If such dog does defecate on public or private property other than his or her own, it shall not be a violation of this provision if such owner, caretaker or attendant shall immediately and thoroughly clean the fecal material from such property, and properly dispose thereof.

(H) It is unlawful for any person to abandon a dog owned by him or her.

(I) It is unlawful for any person to give any false statement or information concerning the owner, keeper or attendant of any dog, or concerning any dog brought into the pound or impounded therein. (Ord. 11, passed 6-1-1998) Penalty, see § 90.99

**§ 90.22 INJURED DOGS.**

(A) When a dog without identification is injured and the owner cannot be found, it is the duty of the Police Department to determine, in consultation with a veterinarian, if the dog for humane reasons and due to the extent of the injury and suffering should be destroyed. If the dog is destroyed, neither the city, nor its agent, shall be held liable for its humane act. If the owner of such dog is subsequently identified, such owner shall pay all expenses of the city and veterinarian's fees and charges.

(B) When a dog with identification is injured, it shall be delivered to a licensed veterinarian and the owner notified. All expenses of the city and veterinarian's fees and charges shall be paid by the owner. (Ord. 11, passed 6-1-1998)

**§ 90.23 KEEPING DOGS.**

It is unlawful for any person or household to harbor more than two dogs at his or her residence. (Ord. 11, passed 6-1-1998) Penalty, see § 90.99

**§ 90.24 KENNELS.**

(A) *Definition.* For the purpose of this section, the term **KENNEL** means any place, building, tract of land, abode or vehicle, wherein or whereon three or more dogs, over six months of age, are kept, kept for sale or boarded.

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(B) *License required.* It is unlawful for any person to operate or maintain a kennel without a license therefor from the city.

(C) *License fee.* The annual fee for a kennel license is \$750.

(D) *Exception.* Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this section.

(E) *Zoning.* No license shall be issued to a person for operation of a kennel in the residential zoning districts of the city.

(Ord. 11, passed 6-1-1998) Penalty, see § 90.99

**§ 90.99 PENALTY.**

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

(B) (1) Any violation of § 90.01 of this chapter shall result in a \$50 fine per day per infraction.

(2) Each day any violation or failure to perform such acts as described in § 90.01 of this chapter shall constitute a separate offense, unless otherwise specifically provided. All reoccurring offenses shall constitute loss of privilege to own chickens.

(C) Any violation of §§ 90.15 through 90.23 of this chapter shall be a petty misdemeanor.  
(Ord. 11, passed 6-1-1998; Ord. 82, passed 8-10-2020)



## CHAPTER 91: FIRE PROTECTION AND PREVENTION

Section

### *General Provisions*

- 91.01 Gasoline, kerosene and oil storage
- 91.02 Burning leaves and grass; recreational fires

### *Fire Protection*

- 91.15 Fire limits
- 91.16 Permits
- 91.17 Limitations within fire limits
- 91.18 Walls
- 91.19 Roof covering
- 91.20 Chimneys
- 91.21 Unsafe buildings
- 91.22 Inspections
- 91.23 Electrical installations

- 91.99 Penalty

### *Cross-reference:*

*Health and Sanitation; Nuisances, see Ch. 78*  
*Subdivisions and Zoning, see Ch. 150*

## **GENERAL PROVISIONS**

### **§ 91.01 GASOLINE, KEROSENE AND OIL STORAGE.**

No person, firm or corporation shall store, or permit to be stored, on premises owned, leased or occupied by him, her or it, within the fire limits area, viz: Blocks 1 and 7 in Smith's First Addition, Blocks 2 and 3 in the original town, and all that portion of the Northern Pacific Railway Company right-of-way between Clark and Brown Streets and Butler Street, if extended northerly across said right-of-way, in the city, according to divisions (A) and (B) below:

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(A) Clause A: gasoline in tanks on, or above, the ground surface, in quantities of more than 50 gallons; and

(B) Clause B: kerosene, oils and fuel oil in tanks on, or above, the ground surface in quantities of more than 300 gallons.

(Ord. 22, passed 1-24-1949) Penalty, see § 91.99

**§ 91.02 BURNING LEAVES AND GRASS; RECREATIONAL FIRES.**

(A) A recreational fire shall be permitted by the city under the following guidelines: only unprocessed wood, as it is taken from a natural tree, may be burned; the length of the wood shall not exceed 24 inches; the width and breadth of the fire shall not exceed three feet; the height of the flames from the fire shall not exceed four feet; a water hose, or other extinguishing device, shall be readily available to the people control of the fire, for extinguishing purposes; and the fire must be totally extinguished when not attended.

(B) The city will permit the residents to burn leaves and grass with the following restrictions: the weather must be favorable for burning; the fire must be attended at all times; any burning within the city shall comply with all state statutes and applicable federal law; permits shall be obtained prior to any open burning; and all open burning shall be prohibited during any imposed burning ban.

(Ord. 50, passed 9-7-1982; Res. passed 5-2-1994; Res. 99-0607, passed 6-7-1999; Ord. 50, passed 8-2-1999) Penalty, see § 91.99

***FIRE PROTECTION*****§ 91.15 FIRE LIMITS.**

The following shall be and is hereby declared to be the fire limits area: that N.W. Quarter of Block 1 in Smith's First Addition, consisting of Lots 19, 20, 21, 22, 23 and 24 be set off from the original Ord. 21.

(Ord. 21, passed 1-24-1949; Ord. 21, passed 8-14-1950)

**§ 91.16 PERMITS.**

No wall, structure, building or thereof, shall here after be built, enlarged, or altered, within the fire limits described herein, until a plan of the proposed work shall have been submitted to the City Council, which shall, if in accordance with the provisions herein contained, issue a permit or not in conformity with this subchapter shall be removed.

(Ord. 21, passed 1-24-1949) Penalty, see § 91.99

**§ 91.17 LIMITATIONS WITHIN FIRE LIMITS.**

No building or structure of frame wall, or of unprotected metal wall construction or which limits has a wooden cornice shall hereafter be erected in the fire limits, except the following: building of frame construction or of unprotected metal construction occupied exclusively as a private garage or stable, not more than one story in height nor more than 300 square feet in area, located on the same lot with a dwelling; frame dwellings not exceeding two stories in height and separated by at least five feet from lot line of adjoining property. Buildings of ordinary (wood joist and masonry wall) construction shall not exceed 50 feet in height and 7,500 square feet in area.

(Ord. 21, passed 1-24-1949) Penalty, see § 91.99

**§ 91.18 WALLS.**

The thickness of masonry bearing walls shall not be less than 12 inches; except that, reinforced concrete walls may have a minimum thickness of eight inches. Parapets shall be provided on all fire walls, party walls and exterior wall of masonry or reinforced concrete. Such parapets shall not be less than 12 inches in thickness for masonry and eight inches for reinforced concrete construction and carried not less than 18 inches above the roof.

(Ord. 21, passed 1-24-1949) Penalty, see § 91.99

**§ 91.19 ROOF COVERING.**

Every roof hereafter placed on a building shall be covered with a roofing of brick, concrete, tile, slate, metal, asbestos or built up roofing finished with asphalt, slag or gravel.

(Ord. 21, passed 1-24-1949) Penalty, see § 91.99

**§ 91.20 CHIMNEYS.**

All chimneys shall be built of masonry not less than four inches thick. Every such chimney shall be lined with a flue lining and shall be built on a solid foundation of masonry or concrete.

(Ord. 21, passed 1-24-1949) Penalty, see § 91.99

**§ 91.21 UNSAFE BUILDINGS.**

A building or structure or part thereof declared structurally unsafe or hazardous by duly constituted authority may be restored to safe condition; provided that, if the damage or cost of restoration and reconstruction is in excess of 50% of the value of the building or structure, if reconstructed or restored such building or structure shall be made to conform to the requirements for buildings and structures contained in this subchapter.

(Ord. 21, passed 1-24-1949) Penalty, see § 91.99

**§ 91.22 INSPECTIONS.**

(A) It shall be the duty of the Chief of the Fire Department to inspect or cause to be inspected by the Fire Department members, as requested, all buildings and premises, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire.

(B) Whenever the inspector shall find in any building or upon any premises or other place, combustible or explosive matter or dangerous accumulating of rubbish, or any highly inflammable materials, and so situated as to endanger property, he or she shall order the same to be removed or remedied.

(Ord. 21, passed 1-24-1949)

**§ 91.23 ELECTRICAL INSTALLATIONS.**

All electrical wiring, apparatus or appliances for furnishing light, heat or power shall be in strict conformity with the statutes of the state and with approved methods of construction for safety of life and property. The regulations in the National Electrical Code shall be prime facie evidence of such approved methods.

(Ord. 21, passed 1-24-1949) Penalty, see § 91.99

**§ 91.99 PENALTY.**

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

(B) Any person, firm or corporation violating any of the provisions of § 91.01 of this chapter shall, upon conviction thereof, be punished by a fine of not more than \$100 and the costs of prosecution or by

imprisonment for not more than three months. Such violation shall be remedied within a reasonable time and each five days that such violation is permitted to exist after notice to offender shall constitute a separate offense.

(C) Anyone found in violation of § 91.02 of this chapter may be fined \$50, plus court costs and applicable attorney's fees.

(D) Every person, firm or cooperation that violates any of the provisions of §§ 91.15 through 91.23 of this chapter shall be guilty of a penal offense and shall be punished to a fine of not less than \$25. (Ord. 21, passed 1-24-1949; Ord. 22, passed 1-24-1949; Ord. 50, passed 9-7-1982; Res. passed 5-2-1994; Res. 99-0607, passed 6-7-1999; Ord. 50, passed 8-2-1999)



## CHAPTER 78: HEALTH AND SANITATION; NUISANCES

### Section

#### *General Provisions*

78.01 Junk cars, household furnishings and the like

#### *Public Nuisances*

- 78.15 Definitions
  - 78.16 Public nuisances affecting health, safety, comfort or repose
  - 78.17 Public nuisances affecting morals and decency
  - 78.18 Public nuisances affecting peace and safety
  - 78.19 Notification procedures
  - 78.20 Enforcement
  - 78.21 Powers of officers
  - 78.22 Policy procedures
  - 78.23 Abatement by City Council
- 78.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 78.01 JUNK CARS, HOUSEHOLD FURNISHINGS AND THE LIKE.**

(A) It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, household furnishings or appliances on public or private property in a Residence District, unless housed within a lawfully erected building in the Residence District.

(B) Any violation of this section is hereby declared to be a nuisance and, upon seven days written notice to the owner, as shown by the records in the office of the County Auditor, of private premises on which such material is found, the city may remove the same and certify the cost of such removal as any other special assessment.

(Ord. 56, passed 6-1-1987) Penalty, see § 78.99

***PUBLIC NUISANCES*****§ 78.15 DEFINITIONS.**

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

***CITY.*** The City of Verndale, Wadena County, Minnesota.

***CITY COUNCIL.*** The City Council of the City of Verndale, Minnesota.

***PERSON.*** Includes any person, firm or corporation, and the singular shall include the plural.

(B) Where references are made herein to particular officers, councils, boards or agencies, such officers, councils, boards or agencies are those of the city.

(Ord. 78, passed 10-6-2014)

**§ 78.16 PUBLIC NUISANCES AFFECTING HEALTH, SAFETY, COMFORT OR REPOSE.**

The following are hereby declared to be public nuisances affecting health, safety, comfort or repose:

(A) All decayed or unwholesome food offered for sale to the public;

(B) All diseased animals running at large;

(C) Carcasses of animals not buried or destroyed within 24 hours after death;

(D) Accumulations of manure, animal feces, rubbish or junk remaining in any place as to become dangerous or injurious to the health and safety of any individual or to the public;

(E) Infestations of flies, cockroaches, lice, rats, mice, fly larvae or hookworm larvae;

(F) Unnatural breeding grounds which support mosquito larvae and mosquitoes carrying West Nile Virus, La Crosse Encephalitis Virus or any other disease causing microorganism;

(G) All ponds or pools of stagnant water, other than wetlands;

(H) Privy vaults and garbage cans which are not fly-tight;



(I) Dumping the contents of any cesspool, privy vault or garbage can except at places authorized by law, or allowing any cesspool or individual sewage disposal system to overflow in any manner;

(J) All noxious weeds, tall grasses and other rank growths; the word “weeds” shall be construed to mean and include all noxious weeds, as defined by the statutes of the state, and all such useless and troublesome plants, as are commonly known as weeds to the general public. All grasses growing to a height greater than eight inches upon any lot or parcel of land within the platted portions of the city are hereby declared to be a nuisance;

(K) An accumulation of tin cans, bottles, trash or debris of any nature or description, and the throwing, dumping or disposing of any dead animals, manure, garbage, waste, decaying matter, ground, sand, stones, ashes, rubbish, tin cans or other material or debris of any kind on private property;

(L) Dense smoke, noxious fumes, gas and soot or cinders in unreasonable quantities;

(M) Offensive trades and businesses, as defined by statutes or ordinances, not licensed as provided by law;

(N) All public exposure of persons having a contagious disease;

(O) The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person by someone properly licensed;

(P) All other acts, omissions of acts, occupations and uses of property which are deemed by the City Council and the county’s Public Health Department to be a menace to the health of the inhabitants of the city or a considerable number thereof;

(Q) It shall be a nuisance for any person in control of, causing or permitting any domesticated animal to be on any property, public or private, not owned or possessed by such person, to fail to remove excrement left by such domesticated animal;

(R) The provisions of division (Q) above shall not apply to the ownership or use of seeing eye dogs by blind persons, dogs when used in police activities by the city and/or a County Sheriff’s Department, or tracking dogs when used by or with the permission of the city;

(S) Every owner and occupant of a structure containing two or more dwelling units shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of the premises. Whenever infestation exists in the shared or public parts of the premises, extermination thereof shall be the responsibility of the owner. In the case of single-family structures, the occupants shall be responsible for the extermination of insects, rodents and vermin in all exterior property areas;

(T) It shall be unlawful to accumulate and store building material, lumber, firewood, boxes, cartons, or other containers, machinery, scrap metal, junk, raw material, fabricated goods and other items in such

manner as to become infested with rodents. Stored items must be stored on an impervious surface, such as a poured concrete slab, or must be elevated at least eight inches above the ground. Firewood piles and other materials may only be located in the rear yards and side yards. Such wood piles and other materials may not encroach on any required rear or side yard setbacks and must be a minimum of one foot from buildings used for habitation;

(U) Failure to keep waste, refuse or garbage properly contained in a closed, insect- and rodent-proof container designed or reasonably adapted for such purpose, except for the immediate time preceding pick-up by a refuse hauler;

(V) Accumulation of decaying animal or vegetable matter, animal or human feces, trash, rubbish, garbage, rotting lumber, packing material, scrap metal, tires or any other substances in which flies, mosquitoes, other disease carrying insects, rodents or other vermin can harbor; this definition does not include compost bins or compost sites which are being managed in accordance with acceptable standards;

(W) Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they are unsightly, decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood, and adversely affect property values and neighborhood patterns; and

(X) An unsecured hole or opening caused by improperly abandoned cistern, well pit, sewage treatment system, unused or non-maintained swimming pool, foundation, unprotected window well, mine shaft or tunnel or any other hole or opening in the ground of sufficient size or depth to pose a danger to the public or an attractive nuisance.

(Ord. 78, passed 10-6-2014) Penalty, see § 78.99

#### **§ 78.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

The following are hereby declared to be public nuisances affecting public morals and decency:

(A) All illegal gambling devices, slot machines and punch boards;

(B) Betting, bookmaking and all apparatuses used in such operations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

(D) Any place where intoxicating liquors are manufactured, sold, bartered or given away in violation of law, or where persons are permitted to resort for the purpose of drinking intoxicating liquors as a beverage contrary to law, or where intoxicating liquors are kept for sale, barter or distribution in violation of law, and all liquors, bottles, kegs, pumps, bars and other property kept at and used for maintaining such a place;

(E) Any place that is set up or operates as a clandestine lab site, and all apparatuses used in such operations;

(F) Any vehicle used for the illegal transportation of intoxicating liquor or any immoral purpose;

(G) The looking into or peeping through doors, windows or openings of private homes by methods of stealth and without proper authority and surreptitious methods, or what is commonly known as “window peeping”; and

(H) All other things, acts, omissions or occupations that may be considered detrimental to the moral well being of the inhabitants of the city or a considerable number thereof.

(Ord. 78, passed 10-6-2014) Penalty, see § 78.99

**§ 78.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

The following are declared to be nuisances affecting peace and safety:

(A) All wires which are strung less than 15 feet above the surface of any public street or alley;

(B) All buildings, walls and other structures which have been substantially damaged by fire, decay or otherwise; all buildings, walls and other structures which contain broken, boarded or taped windows; all buildings, walls and other structures which have deteriorated to such an extent that they are structurally deficient or otherwise unsafe; and all buildings, walls and other structures which are so situated so as to endanger the safety of the public;

(C) All explosives, flammable liquids, inflammable liquids and other dangerous substances or materials stored or accumulated in any unsafe manner or in any amount other than that provided by law or ordinance;

(D) All use or display of fireworks, except as provided by law or ordinance;

(E) All buildings and all alterations to buildings made or erected in violation of fire ordinances and building codes concerning manner and materials and construction;

(F) A structure or portion of a structure located in a residential zoning district, if the exterior is not completed in accordance with city-approved construction plans within 180 days after the date that the city building permit was issued;

(G) Construction materials, including piles of dirt, sand, or sod, left in the open on property more than 60 days after construction has been completed, not to exceed one building season of permit issued or a certificate of occupancy has been issued, whichever occurred first;

**Verndale - General Regulations**

(H) Discarded construction material or other litter at a construction site that is not placed in an adequate waste container or that is allowed to blow around or off the site;

(I) The intentional or negligent discharge of items such as leaves, grass clippings, solvents, antifreeze, oil, fireplace ashes, paint and cement and/or concrete into a street, storm sewer system or water resource such as a wetland, creek, pond or lake;

(J) Obstructions and excavations affecting the ordinary use of the public streets, alleys, sidewalks or public grounds, except under such conditions as are provided by ordinance, and any other excavation left unprotected or uncovered indefinitely or allowed to exist in such manner as to attract minor children;

(K) Radio aerials strung or erected in any manner, except that provided by law or ordinance;

(L) The piling, storing or keeping of old machinery, wrecked, junked or inoperative vehicles, and other junk or debris;

(M) The use of property abutting on a public street or sidewalk, or any use of public street or sidewalk, which causes large crowds of people to gather obstructing traffic and the free use of public streets or sidewalks;

(N) All hanging signs, awnings and other similar structures over public streets or sidewalks or so situated as to endanger public safety, not constructed or maintained as provided by law or ordinance, or without proper permit;

(O) The allowing of rain, water, ice or snow to fall from any building onto any public street or sidewalk or to flow across any public sidewalk;

(P) Accumulations or storage in the open (such as, not contained with a building) of any of the following items or any parts or accessories thereto:

(1) All dangerous unguarded machinery, in any public place or so situated or operated on public property as to attract the public;

(2) Household appliances or furnishings;

(3) Any motor vehicle which is inoperable, not currently licensed or generally is not being driven;

(4) Items which are not generally or normally used on the particular premises;

(5) Firewood which is not neatly stacked in a compact manner;

(6) Any other materials or items of any kind or nature which tend to harbor rats, mice, snakes or vermin or otherwise are a potential fire, health or safety hazard from such accumulations;

(7) Pipe, lumber, forms, machinery or other occupational materials kept upon any property for more than 90 days, except when in current use in construction or repair work; and

(8) Accumulations of any items that tend to cause an unsightly appearance of the premises and which cause discomfort for any other members of the public who may be using their own or public property.

(Q) Throwing, dropping or releasing printed matter, paper or any other material or objects over and upon the city from an airplane, balloon or other aircraft or in such a manner as to cause such materials to fall on land in the city;

(R) Placing entrance culverts or doing any act which may alter or affect the drainage of public streets or alleys or the surface or grade of public streets, alleys or sidewalks without proper permit;

(S) Making repairs to motor vehicles, or tires in public streets or alleys, excepting only emergency repairs when it will not unduly impede or interfere with traffic;

(T) Throwing, placing, depositing or burning leaves, trash, clippings, weeds, grass or other materials in the streets, alleys or gutters;

(U) Erecting, painting or placing of unauthorized traffic signs or advertising signs in streets, alleys or on sidewalks;

(V) All unnecessary interferences and disturbances of radios or television sets caused by defective electrical appliances and equipment or improper operation thereof;

(W) Driving scooters, bicycles, skateboards, roller skates, motorcycles or any type of motorized vehicle or non-motorized vehicle on any sidewalk located in the downtown business district;

(X) To operate any private parking lot without keeping the same reasonably free from dust;

(Y) To operate any artificial lighting devices upon any residential, commercial or industrial premises so as to cause a distraction to passing motorists or to operate said artificial lighting devices upon any residential, commercial or industrial premises without some effective device so as to protect adjacent premises from being adversely affected thereby;

(Z) The maintenance of any tree or shrub, the roots of which are causing damage to any public sewer, sidewalk, pavement or other public property, or setting out or planting any tree or brush in the public street or any portion thereof;

(AA) All limbs of trees which are less than 12 feet above the surface of any public sidewalk or 12 feet above the surface of any street;

(BB) Deteriorated, wrecked or derelict property in unusable condition, which has no apparent value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements, and shall include, without being so restricted, deteriorated, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, household appliances, plumbing fixtures, furniture, cut trees, branches, building materials, general rubbish, tools, benches or any other similar articles in such condition;

(CC) Encroachments onto publicly-owned property, including tax-forfeited property under public control, such as the placement of structures, materials, recreational equipment, lawn chair, fire pits, the dumping of organic materials, the storing of privately-owned items, the undertaking of activities affecting the physical nature of the property, such as mowing, vegetation removal or the application of fertilizer, pesticides or herbicides without the express, written permission of the city; and

(DD) All other conditions, acts or things which are liable to cause injury to the person or property of another.

(Ord. 78, passed 10-6-2014) Penalty, see § 78.99

#### **§ 78.19 NOTIFICATION PROCEDURES.**

An investigation of a public nuisance violation may be initiated by any of these methods:

(A) Filing a city complaint form with the city's Clerk/Treasurer at City Hall, 101 South Brown Street, (which will require the complainant's signature);

(B) Contact with a City Council member either in person, via telephone, email or by mail; a method by which the complainant's identification may be verified;

(C) Notification to a law enforcement agency; and

(D) Any of the above procedures will/may require the complainant's name, signature, address and a phone number.

(Ord. 78, passed 10-6-2014)

#### **§ 78.20 ENFORCEMENT.**

It shall be the duty of the City Council, by and through the city's Police Department, to enforce the provisions of this subchapter and the City Council may, by resolution, delegate to such other officers or agencies power to enforce particular provisions of this subchapter, including the power to inspect

private premises and the officers charged with enforcement of this subchapter shall take all reasonable precautions to prevent the commission and maintenance of public nuisances.

(Ord. 78, passed 10-6-2014)

**§ 78.21 POWERS OF OFFICERS.**

(A) Whenever, in the judgment of the officer charged with enforcement, it is determined upon investigation that a public nuisance is being maintained or exists within the city, the following procedure shall prevail:

(1) The officer shall notify in writing to the person committing or maintaining such nuisance and require him or her to terminate and abate said nuisance and to remove such conditions or remedy such defects;

(2) Said written notice and/or citation shall be served upon the person committing or maintaining said nuisance in person or by registered mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice and/or citation on the premises;

(3) Said notice and/or citation shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable time to abate and remove said nuisance, said steps and time to be designated in said notice and/or citation, but the maximum time for the removal of said nuisance after service of said notice and/or citation shall not in any event exceed 30 days; and

(4) Service of a notice may be provided by filing an affidavit of service with the city's Clerk/Treasurer setting forth the manner and time thereof. Service of a citation may be proved by filing a copy of the citation with the city's Clerk/Treasurer setting forth the manner and time of the service thereof.

(B) When an order so given is not complied with, such non-compliance shall be reported forthwith to the City Council for such action as may be necessary and deemed advisable in the name of the city to abate and enjoin the further continuation of said nuisance.

(Ord. 78, passed 10-6-2014)

**§ 78.22 POLICY PROCEDURES.**

(A) Notification of violation to person by officer;

(B) Abatement and/or removal of public nuisance within 30 days required;

(C) Written or oral appeal from violator to City Council on public nuisance abatement and/or removal non-compliance; and

(D) Consideration of City Council to abatement/removal plan extension.  
(Ord. 78, passed 10-6-2014)

### **§ 78.23 ABATEMENT BY CITY COUNCIL.**

If, after service of notice of intent to abate nuisance, the person served fails to abate the nuisance or make the necessary repairs, alterations or changes in accordance with the direction of the enforcement officer or the City Council, the City Council may cause such nuisance to be abated at the expense of the city and recover such costs against the person or persons served. To cover administrative costs necessarily incurred in the abatement and assessment procedure, an administrative fee in the amount of not more than 25% of the cost to abate the nuisance shall be imposed; except that, in no event shall the administrative fee be less than \$50. As to any such costs, the City Council shall direct the city's Clerk/Treasurer to extend such sum as an assessment against the property upon which the nuisance existed and shall certify the same to the county's Auditor/Treasurer for collection in the same manner as taxes and special assessments are certified and collected.

(Ord. 78, passed 10-6-2014)

### **§ 78.99 PENALTY.**

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

(B) Any person who shall cause or create a nuisance or permit a nuisance to be created or placed upon, or to remain upon any premises owned or occupied by him or her, and any person who shall fail to comply with any order made under the provisions of §§ 78.15 through 78.23 of this chapter, upon conviction thereof, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 90 days, or both.

(Ord. 78, passed 10-6-2014)



## **CHAPTER 93: STREETS, SIDEWALKS AND TREES**

### Section

#### 93.01 Planting in parks

#### **§ 93.01 PLANTING IN PARKS.**

No trees, shrubs, flowers be planted or any structure be erected in the city parks without first obtaining permission from the Maintenance Engineer.

(Res. 84-0507, passed 5-7-1984)



## CHAPTER 94: FAIR HOUSING

### Section

- 94.01 Policy declaration
- 94.02 Definitions
- 94.03 Prohibited acts in regard to housing
- 94.04 Enforcement procedures
- 94.05 Statute of limitations
- 94.06 Civil enforcement

### § 94.01 POLICY DECLARATION.

Discrimination with regard to housing on the basis of race, sex, creed, religion, marital status and disability adversely affects the health, welfare, peace and safety of the community. Persons subject to such discrimination suffer depressed living conditions and create conditions which endanger the public peace and order. The public policy of the city is declared to be to foster equal opportunity for all to obtain decent, safe and sanitary housing without regard to their race, creed, color, national origin, marital status, disability status, sex and strictly in accord with their individual merits as human beings. It is also the policy of the city to protect all persons from all unfounded charges of discrimination. (Ord. 55, passed 7-7-1986)

### § 94.02 DEFINITIONS.

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

**DISABILITY.** A mental or physical condition which constitutes a handicap. Nothing in this section shall be construed to prohibit any program, service, facility or privilege afforded to a person with a disability which is intended to habilitate, rehabilitate or accommodate that person.

**DISCRIMINATE** or **DISCRIMINATION.** Includes segregate or separate.

**MARITAL STATUS.** The standing, state or condition of one as single or married person. (Ord. 55, passed 7-7-1986)

**§ 94.03 PROHIBITED ACTS IN REGARD TO HOUSING.**

(A) It is an unlawful discriminatory practice:

(1) For any person to discriminate on grounds of race, creed, religion, color, sex, marital status, status with regard to public assistance, national origin, age or disability, in the sale, lease or rental of any housing unit or units;

(2) For any broker, salesperson or other person acting on behalf of another to so discriminate in the sale, lease or rental of any housing unit or units belonging to such other person;

(3) For any person engaged in the business of financing the purchase, rehabilitation, remodeling or repair of housing units or in the business of selling insurance with respect to housing units to refuse to provide such financing or insurance or to discriminate with regard to the terms or conditions thereof by reason of the race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age or disability of the applicant or because of the location of the unit or units in areas of the city occupied by persons of a particular race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age or disability; or to discriminate by treating differently any person or group of persons who desire to purchase, lease acquire, construct, rehabilitate, repair or maintain real property in a specific urban area because of social, economic or environmental conditions of the area in the granting, withholding, extending, modifying, renewing or in the rates, terms, conditions or privileges of any such financial assistance or in the extension of services in connection herewith. The bona fide programs of federal, state or local governmental units or agencies, however structured or authorized to upgrade or improve in any manner a specific urban area shall not be deemed to be a violation of this section;

(4) For any person, having sold, leased or rented a housing unit or units to any person, to discriminate with respect to facilities, services or privileges of occupancy by reason of race, color, sex, creed, religion, national origin, age or disability, marital status or status with regard to public assistance;

(5) For any person to make or publish any statement evidencing an intent to discriminate, on grounds of race, creed, religion, color, sex, national origin or ancestry, marital status, status with regard to public assistance, age or disability, in the sale, lease, or rental of a housing unit or units;

(6) For any person to make any inquiry regarding race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability, or to keep any record or use any form of application, designed to elicit such information, in connection with the sale, lease, rental or financing of a housing unit or units, unless such information is used only for statistical purposes to affirmatively further fair housing; and

(7) For any person, for the purpose of inducing a real estate transaction from which he or she may benefit financially:

(a) To represent that a change has occurred or will or may occur in the composition of the block, neighborhood, or area in which the property is located, in respect of the race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability of those living there; or

(b) To represent that this change will or may result in the lowering of property values, an increase in crime, or anti-social behavior, or a decline in the quality of schools in the block, neighborhood or area concerned.

(B) Nothing in this section shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person or persons regardless of any disability in a written lease, rental agreement or contract or purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of such lease, agreement or contract.

(C) The provisions of this section shall not apply to:

(1) The rental of a portion of a dwelling containing accommodations for two families, one of which is occupied by the owner; or

(2) The rental by an owner or occupier of a one-family accommodation in which he or she resides of a room or rooms in such accommodation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance or disability. Nothing in this section shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of such lease, agreement or contract. (Ord. 55, passed 7-7-1986)

**§ 94.04 ENFORCEMENT PROCEDURES.**

The city is designated as the enforcement agency for this section and shall have the power to receive, hear and determine complaints as provided herein. The city shall promptly investigate, upon complaint or upon its own motion, any violations of this chapter. If, after investigation, it shall have reason to believe a violation has occurred it may refer the matter to the City Attorney for criminal prosecution, initiate civil enforcement procedures as herein provided, or enter into a settlement agreement which, when approved by the city, shall have the same force as a city order.

(Ord. 55, passed 7-7-1986)

**§ 94.05 STATUTE OF LIMITATIONS.**

No action may be brought for civil enforcement or criminal prosecution unless the charge of alleged discriminatory practice was filed with the city within 180 days form the occurrence of the practice.  
(Ord. 55, passed 7-7-1986)

**§ 94.06 CIVIL ENFORCEMENT.**

Civil enforcement procedures shall be prosecuted by the city before the Council in the following manner.

(A) The city shall serve upon respondent by certified mail a complaint, signed by it, which shall set forth a clear and concise statement of the facts constituting the violation, set a time and place for hearing, and advise the respondent of his or her right to file an answer to appear in person or by an attorney and to examine and cross-examine witnesses.

(B) The hearing shall not be less than 20 days after service of the complaint. At any time prior to the hearing, the respondent may file an answer. Facts not denied by answer shall be deemed admitted. If the answer sets out new matter, it shall be deemed denied by the city.

(C) The complaint or answer may be amended at any given time prior to the hearing with the consent of the opposing party.

(D) Hearings shall be before the City Council.

(E) The city may obtain subpoenas from the District Court to compel the attendance of witnesses and the production of documents at any hearing.

(F) If, after the hearing, the Council shall conclude that a violation has occurred, it shall prepare an order which may contain any provision deemed desirable to do justice to the complainant or to prevent further violations. It may include provisions which require the respondent to rent, sell or lease particular housing to the complainant or to do any other thing as may be just. The Council's findings of fact and order shall be served on the respondent by mail, and shall become the findings and order of the city unless, within ten days after mailing of the findings and order, the city shall revoke or amend the order. Any order of the city may be modified by the city at any time.  
(Ord. 55, passed 7-7-1986)

## CHAPTER 95: NOISE REGULATIONS

### Section

- 95.01 Public nuisances caused by sound
- 95.02 Nuisance noises
- 95.03 Persons liable
- 95.04 Exceptions
  
- 95.99 Penalty

### § 95.01 PUBLIC NUISANCES CAUSED BY SOUND.

Any loud, unnecessary or unusual sound or any sound which annoys, disturbs or affects the comfort, repose, health, peace or safety of others in the city is declared to be a public nuisance.  
(Ord. 72, passed 4-1-2002)

### § 95.02 NUISANCE NOISES.

The following are declared to be nuisance noises:

(A) *Horns or sirens.* The sounding of any siren, device on a motor vehicle, except in case of equipment used by public safety personnel in situations;

(B) *Radios, stereos, tape or disc players and the like.* The use or operation of a radio receiving set, musical instrument, phonograph, stereo, tape or disc player or other machine or device used for the amplification of sound at a volume in excess of that reasonably necessary for the convenient hearing of the person or persons in the room, vehicle or chamber in which the same is being operated. The operation of any radio receiving set, musical instrument, phonograph, stereo, tape or disc player or other machine or device used for amplification of sound shall be prima facie evidence of a violation of this ordinance if sound therefrom is plainly audible:

(1) In an apartment or hallway of a multifamily building adjacent to the unit where the device is operating;

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- (2) At the boundary of the real property on which the device is operated; and
- (3) At a distance of 50 feet from any motor vehicle in which the device is operating.

(C) *Loudspeakers, amplifiers, sound trucks.* The use or operation of any loudspeaker, sound amplifier, sound truck or vehicle equipped with sound amplifying devices or other machine or device for producing or reproduction of sound which is used to attract the attention of the public to any building, structure, business, vehicle or other area, or any horn or other signaling imminent danger and except for emergency;

(D) *Human noise.* The prolonged yelling, shouting, screaming, whistling or singing that is audible beyond the boundaries of the area or premise owned, rented, leased or used by the person making the noise;

(E) *Animal noise.* The frequent or continued barking, howling or other noise from any animal or bird not confined within a building;

(F) *Vehicle noise.* The discharge of vehicle exhaust into the air, except through a muffler that is free of holes, cracks or other defects;

(G) *Truck dynamic brake (Jake brake).* The intentional use of dynamic (Jake) brake on any public highway, street, parking lot or alley in the city; and

(H) *Loud parties.* Sound emanating from any party or gathering of a sufficient volume so as to disturb the peace, quiet or repose of other persons within the city. It shall be prima facie evidence of a violation of this chapter if the sound of the party or gathering is audible to a human ear at a distance of 50 feet from the building or dwelling unit from which the sound emanates.

(Ord. 72, passed 4-1-2002) Penalty, see § 95.99

**§ 95.03 PERSONS LIABLE.**

(A) Any person who makes, participates or assists in making, or allows to be made a nuisance noise is guilty of a public nuisance caused by sound offense.

(B) Any person who participates in a party or gathering that generates nuisance noise shall be guilty of maintaining a public nuisance. In the event that any party or gathering is determined by a city peace officer or county peace officer to generate nuisance noise, all persons, except the owner or permanent occupant, shall promptly leave the premises in an orderly manner.

(C) A violation of this chapter, whether noise emanates from a vehicle, street or private residence, shall be deemed to be the act of the owner, as well as the persons who violate this chapter; except that,



that the owner of a dwelling unit occupied by others shall be liable only for those violations occurring after a written notice of a violation of this ordinance shall have been received.

(Ord. 72, passed 4-1-2002)

**§ 95.04 EXCEPTIONS.**

Activities that have been approved by the City Council shall be exempt from this chapter.

(Ord. 72, passed 4-1-2002)

**§ 95.99 PENALTY.**

Any person(s), firm, corporation and/or entity found guilty of violation of this chapter shall be guilty of a petty misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$300.

(Ord. 72, passed 4-1-2002)



## CHAPTER 96: CEMETERIES

### Section

- 96.01 Established
- 96.02 Prices of lots and other services
- 96.03 Receipt of moneys
- 96.04 Management
- 96.05 Burial permits
- 96.06 General regulations
  
- 96.99 Penalty

### **§ 96.01 ESTABLISHED.**

A cemetery has been established and is continued upon land owned by the city and described as follows, to-wit: east 667 feet of the north 424.5 feet of N.W. quarter (NE 1/4 NW 1/4) and the west 338 feet of the north 424.5 feet of the N.E. quarter (NE 1/4 NW 1/4), all in Section 30, Township 134, Range 34.

(Ord. 40, passed 8-4-1975)

### **§ 96.02 PRICES OF LOTS AND OTHER SERVICES.**

The prices of cemetery lots and other services, as determined by Council resolution, shall be filed with the city's Clerk/Treasurer. Any person paying the price thus fixed for any lot and perpetual care shall be entitled to a deed conveying the same, executed by the Mayor and Clerk/Treasurer. The purchaser shall expressly agree in the deed that his or her rights are adopt relative to the use of the cemetery.

(Ord. 40, passed 8-4-1975)

### **§ 96.03 RECEIPT OF MONEYS.**

All money received from the sale of lots, for perpetual care and other services, shall be paid to the city's Clerk/Treasurer, who shall give a receipt therefor.

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(A) A Permanent Care and Improvement Fund is hereby established as a separate fund for use in maintaining, caring for and improving the cemetery and cemetery lots in Green Lawn Cemetery. No portion of the principal of this fund shall be used for the a forestated purposes, but shall remain as a permanent fund, and all sums received for deposit to the credit of this fund shall be kept, managed and administrated by the city's Clerk/Treasurer.

(B) The portion of the of price to be allocated to the Permanent Care and Improvement Fund shall be determined by Council resolution and filed with the city's Clerk/Treasurer.

(C) Subject to any disposition otherwise authorized by law, all income received by the city from the Permanent Care and Improvement Fund shall be used solely for the purpose of defraying the cost of caring form maintaining, and improving the cemetery lots for which permanent care has been provided, pursuant to the amount necessary to pay for care and improvement of the lots, or any income not spent in any year for this purpose shall remain in the Cemetery Fund.

(D) A report showing in detail how the income received by the city form the Permanent Care and Improvement Fund during the preceding calender year has been expended shall be included in the annual financial report of the city.

(Ord. 40, passed 8-4-1975)

**§ 96.04 MANAGEMENT.**

The management of the City Cemetery and the direction and control of the operation, care and maintenance thereof, shall be the maintenance supervisor and two Council members, who shall be appointed annually by the City Council.

(Ord. 40, passed 8-4-1975)

**§ 96.05 BURIAL PERMITS.**

Before any interment shall be made in the cemetery, a burial permit shall be provided to the custodian or a member of the cemetery committee. No interment shall be made in the cemetery, except upon at least 24 hours' notice given in advance of the time set for the funeral service, given to the custodian or other person in charge of the cemetery, for the city. No casket shall be interred in said cemetery unless the same is enclosed in a vault.

(Ord. 40, passed 8-4-1975)

**§ 96.06 GENERAL REGULATIONS.**

(A) No person may discharge any firearm or have possession of any firearm within the cemetery grounds without the permission of the Superintendent.

(B) No person may remove any object from any place in the cemetery or make any excavation without the consent of the custodian.

(C) No person may obstruct any drive or path in the cemetery or in any way injure, deface or destroy any structure, grave, flower, tree or any thing in the cemetery.

(D) No person may drive any vehicle faster than a walk within the cemetery, nor drive over any path or roadway not authorized by the custodian.

(E) No person may disturb the quiet of the cemetery by noise or improper conduct of any kind, nor use the cemetery grounds or any road therein as a public thoroughfare, nor drive any vehicle through the cemetery grounds, except for purposes relating to the cemetery.

(F) No person may loiter at any time, nor be in the cemetery without permission of the cemetery custodial at any time between the hours of sunset to 6:00 a.m.  
(Ord. 40, passed 8-4-1975) Penalty, see § 96.99

**§ 96.99 PENALTY.**

Any person violating any provision of this chapter is guilty of a misdemeanor and shall be punished by a fine up to \$1,000 or up to 90 days in jail.  
(Ord. 40, passed 8-4-1975)



**TITLE XI: BUSINESS REGULATIONS**

Chapter

- 110. ALCOHOLIC BEVERAGES**
- 111. TOBACCO**
- 112. AMUSEMENTS AND LEISURE**
- 113. PEDDLING AND SOLICITING**
- 114. PERSONAL SALES**





## CHAPTER 110: ALCOHOLIC BEVERAGES

### Section

#### *General Provisions*

- 110.01 State law adopted by reference
- 110.02 City law may be more restrictive than state law
- 110.03 Definitions
- 110.04 Nudity in licensed establishments prohibited
- 110.05 Consumption in public places
- 110.06 Minors on premises
- 110.07 Purchase and consumption restrictions

#### *Licensing*

- 110.20 Number of licenses that may be issued
- 110.21 Term and expiration of licenses
- 110.22 Kinds of liquor licenses
- 110.23 License fees; pro rata
- 110.24 Council discretion to grant or deny license
- 110.25 License application
- 110.26 Description of premises
- 110.27 Renewal applications
- 110.28 License transfer
- 110.29 Investigation
- 110.30 Hearing and issuance
- 110.31 Issuance restrictions
- 110.32 License conditions
- 110.33 Hours and days of sale
- 110.34 Suspension and revocation
- 110.35 Issuance of other licenses

#### *Municipal Liquor Stores*

- 110.50 Application
- 110.51 Existing municipal liquor stores continued
- 110.52 Location

110.53 Operation

110.54 Proof of financial responsibility

110.99 Penalty

### ***GENERAL PROVISIONS***

#### **§ 110.01 STATE LAW ADOPTED BY REFERENCE.**

The provisions of M.S. Ch. 340A, as it may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

(Ord. 75, passed 10-18-2007)

#### **§ 110.02 CITY LAW MAY BE MORE RESTRICTIVE THAN STATE LAW.**

The Council is authorized by the provision of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

(Ord. 75, passed 10-18-2007)

#### **§ 110.03 DEFINITIONS.**

In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, for the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***LIQUOR.*** As used in this chapter, without modification by the words “intoxicating” or “3.2% malt”, includes both intoxicating liquor and 3.2% malt liquor.

***RESTAURANT.*** An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served

and consumed while seated at a single location. Having appropriate facilities to serve meals for seating not less than 50 guests at one time. An eating facility where the customer may order food from printed menus until midnight and where 60% or more of the restaurant revenues come from food sales. A financial statement will be required to be submitted to the city annually prior to license renewal. To be a *RESTAURANT*, as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment”, “medium establishment” or “large establishment”, as defined in M.S. § 157.16, subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a *RESTAURANT* for purposes of this chapter unless it meets the definitions of a “small establishment”, “medium establishment” or “large establishment”.  
(Ord. 75, passed 10-18-2007)

**§ 110.04 NUDITY IN LICENSED ESTABLISHMENTS PROHIBITED.**

(A) The City Council finds that it is in the best interests of the public health, safety and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine or 3.2% malt liquor license or any other license issued under this chapter or the imposition of a civil penalty under the provisions of § 110.99 of this chapter.  
(Ord. 75, passed 10-18-2007) Penalty, see § 110.99

**§ 110.05 CONSUMPTION IN PUBLIC PLACES.**

No person shall consume intoxicating liquor or 3.2% malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.  
(Ord. 75, passed 10-18-2007) Penalty, see § 110.99

**§ 110.06 MINORS ON PREMISES.**

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquor or 3.2% malt liquor are sold at retail on sale; except that, persons under the age of 18 years may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment, except to work, consume meals on premises that qualify as a restaurant or attend social functions that are held in a portion of the premises where liquor is not sold.

(Ord. 75, passed 10-18-2007) Penalty, see § 110.99

**§ 110.07 PURCHASE AND CONSUMPTION RESTRICTIONS.**

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

(Ord. 75, passed 10-18-2007) Penalty, see § 110.99

***LICENSING*****§ 110.20 NUMBER OF LICENSES THAT MAY BE ISSUED.**

(A) State law establishes the number of liquor licenses that a city may issue.

(B) However, the number of licenses which may be granted under this chapter is limited to the number of licenses which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council, in its sound discretion, may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued.

(C) The Council is not required to issue the full number of licenses that it has available.

(Ord. 75, passed 10-18-2007)

**§ 110.21 TERM AND EXPIRATION OF LICENSES.**

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety and the accompanying city consent to the permit shall expire on March 31 of each year.

(Ord. 75, passed 10-18-2007)

**§ 110.22 KINDS OF LIQUOR LICENSES.**

(A) The council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in § 110.20 of this chapter.

(B) The council of a city which has a municipal liquor store is authorized to issue only those licenses specified in § 110.35 of this chapter:

(1) 3.2% malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks;

(2) 3.2% malt liquor off-sale license;

(3) Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious or non-profit organization;

(4) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before 5-1-1994. The fee for an off-sale intoxicating liquor license established by the Council under § 110.23 of this chapter shall not exceed \$240 or a greater amount which may be permitted by M.S. § 340A.408, subd. 3, as it may be amended from time to time;

(5) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels; restaurants; bowling centers; theaters; clubs or congressionally chartered veterans organizations; theaters; and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under § 110.23 of this chapter shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2b, as it may be amended from time to time. The Council may, in its sound discretion, authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4(b), as it may be amended from time to time. The Council may, in its sound discretion, authorize a retail on-sale licensee to dispense intoxicating liquor

off the licensed premises at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4(a), as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises;

(6) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided in M.S. § 340A.504, subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant, as defined in § 110.03 of this chapter, club, bowling center or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of § 110.23 of this chapter, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, subd. 3(b), as it may be amended from time to time;

(7) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000;

(8) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year;

(9) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters; restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in § 110.03 of this chapter; to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.4011, subd. 1, as it may be amended from time to time, and to theaters that meet the criteria in M.S. § 340A.404, subd. 1(b), as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 110.23 of this chapter, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license;

(10) One-day consumption and display permits with the approval of the Commissioner of Public Safety to a non-profit organization in conjunction with a social activity in the city sponsored by the organization;

(11) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 110.23 of this

chapter shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.414, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year;

(12) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only;

(13) Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this division (B)(13) authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in the state. The license may authorize the off-sale of wine for not more than three consecutive days; provided, not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by § 110.23 of this chapter;

(14) Brew pub on-sale intoxicating liquor or on-sale 3.2% malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. § 340A.24, as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under division (B)(15) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year; provided that, off-sales may not total more than 500 barrels;

(15) Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under division (B)(14) above or that produces fewer than 3,500 barrels of malt liquor in a year or otherwise meets the criteria established at M.S. § 340A.24, as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. § 340A.285, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under division (B)(14) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year; provided that, off-sales may not total more than 500 barrels; and

(16) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

(Ord. 75, passed 10-18-2007)

**§ 110.23 LICENSE FEES; PRO RATA.**

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time in an ordinance establishing fees and charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.  
(Ord. 75, passed 10-18-2007)

**§ 110.24 COUNCIL DISCRETION TO GRANT OR DENY LICENSE.**

The Council, in its sound discretion, may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has the right to a license under this chapter.  
(Ord. 75, passed 10-18-2007)

**§ 110.25 LICENSE APPLICATION.**

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility, as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.  
(Ord. 75, passed 10-18-2007)



**§ 110.26 DESCRIPTION OF PREMISES.**

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.  
(Ord. 75, passed 10-18-2007)

**§ 110.27 RENEWAL APPLICATIONS.**

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have license renewed.  
(Ord. 75, passed 10-18-2007)

**§ 110.28 LICENSE TRANSFER.**

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license and all of the provisions of this code applying to applications for a license shall apply.  
(Ord. 75, passed 10-18-2007)

**§ 110.29 INVESTIGATION.**

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council, that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the preliminary investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the preliminary investigation, if the investigation is required outside the state. The unused balance

of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(Ord. 75, passed 10-18-2007)

### **§ 110.30 HEARING AND ISSUANCE.**

(A) The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license.

(B) After the investigation and hearing, the Council shall, in its sound discretion, grant or deny the application. No license shall be effective until the proof of financial security has been approved by the Commissioner of Public Safety.

(Ord. 75, passed 10-18-2007)

### **§ 110.31 ISSUANCE RESTRICTIONS.**

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, services charges or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.

(F) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

(Ord. 75, passed 10-18-2007) Penalty, see § 110.99

**§ 110.32 LICENSE CONDITIONS.**

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(Ord. 75, passed 10-18-2007) Penalty, see § 110.99

**§ 110.33 HOURS AND DAYS OF SALE.**

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

(Ord. 75, passed 10-18-2007) Penalty, see § 110.99

#### **§ 110.34 SUSPENSION AND REVOCATION.**

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. § 14.69, as it may be amended from time to time. The Council may act as the hearing body under that act or it may contract with the Office of Hearing Examiners for a Hearing Officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time.

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor or violation of M.S. § 110.04, as it may be amended from time to time, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (B)(1) above that the licensee has failed to comply with any applicable statute, rule or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed;

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed;

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed; and

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) (1) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is

made in writing to the Clerk/Treasurer, a hearing before the Council shall be granted within ten days.

(2) Any suspension under this division (C) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 110.99 of this chapter may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

(Ord. 75, passed 10-18-2007)

**§ 110.35 ISSUANCE OF OTHER LICENSES.**

(A) *On-sale licenses for the sale of intoxicating liquor.* The Council may issue, in its sound discretion, on-sale licenses to a club under M.S. § 340A.404, subd. 1(a)(4), as it may be amended from time to time. If the voters have authorized their issuance at a special election called for that purpose, the Council may issue, on its sound discretion, on-sale liquor licenses to hotel and restaurants. The number of on-sale licenses issued under this section is governed by M.S. § 340A.413, as it may be amended from time to time, as limited by the provisions of this chapter. The issuance of these licenses is governed by the provisions of this chapter.

(B) *Off-sale licenses for the sale of intoxicating liquor.* State law does not authorize the issuance of off-sale licenses for the sale of intoxicating liquor by cities which operate a municipal liquor dispensary.

(C) *On- and off-sale 3.2% malt liquor licenses.* The Council may issue 3.2% malt liquor licenses in its sound discretion as provided in this chapter.

(Ord. 75, passed 10-18-2007)

***MUNICIPAL LIQUOR STORES***

**§ 110.50 APPLICATION.**

This subchapter shall apply only to a city that has in existence on the effective date of this chapter a municipal liquor store.

(Ord. 75, passed 10-18-2007)

**§ 110.51 EXISTING MUNICIPAL LIQUOR STORES CONTINUED.**

If the city has in existence on the effective date of this chapter a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in § 110.35 of this chapter, no intoxicating liquor may be sold at retail elsewhere in the city.

(Ord. 75, passed 10-18-2007)

**§ 110.52 LOCATION.**

The municipal liquor store shall be located at a suitable place in the city as the Council determines by motion. However, no premises upon which taxes, assessments or other public charges are delinquent shall be leased for municipal liquor store purposes. The Council shall have the right to establish additional off-sale and on-sale stores at other locations as it may, from time to time, by motion, determine.

(Ord. 75, passed 10-18-2007)

**§ 110.53 OPERATION.**

(A) *Manager.* The municipal liquor store shall be in the immediate charge of a liquor store manager selected by the Council and paid compensation as is fixed by the Council. The manager shall not be a person who would be prohibited by law or any provision of this chapter from being eligible for an intoxicating liquor license. The manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The manager shall be responsible to the Council for the conduct of the store in full compliance with this chapter and with the laws relating to the sale of intoxicating liquor and 3.2% malt liquor.

(B) *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 years shall be employed in the store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

(C) *Municipal liquor store fund.* All of the revenues received from the operation of a municipal liquor store shall be deposited in a Municipal Liquor Store Fund from which all ordinary operating expenses, including compensation of the manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the city or to any other appropriate fund of the city by resolution of the Council and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of city funds generally.

(D) *Financial statement.* The Council shall provide, within 90 days following the end of the calendar year, for publication a balance sheet using generally accepted accounting procedures and a statement of operations of the municipal liquor store for that year. The balance sheet and statement of operations shall be published in accordance with the provisions of M.S. § 471.6985, as it may be amended from time to time.

(E) *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as provided in § 110.33 of this chapter. No person, other than the manager or a store employee, may remain in the municipal liquor store longer than one half-hour after the time when the sale of intoxicating

liquor must cease.

(Ord. 75, passed 10-18-2007) Penalty, see § 110.99

#### § 110.54 PROOF OF FINANCIAL RESPONSIBILITY.

The city shall demonstrate proof of financial responsibility required by licensees of retail intoxicating liquor establishments under the provisions of M.S. § 340A.409, as it may be amended from time to time. (Ord. 75, passed 10-18-2007)

#### § 110.99 PENALTY.

(A) Any person violating the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and, upon conviction, shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. § 14.69, as they may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

- (1) For the first violation within any three-year period: \$500;
- (2) For the second violation within any three-year period: \$1,000; and
- (3) For the third and subsequent violations within any three-year period: \$2,000.

(C) The term **VIOLATION**, as used in § 110.34 of this chapter, includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed. (Ord. 75, passed 10-18-2007)





## CHAPTER 111: TOBACCO

### Section

- 111.01 Purpose
- 111.02 Definitions and interpretations
- 111.03 License required; fees
- 111.04 License denial; basis
- 111.05 Prohibited sales
- 111.06 Vending machines
- 111.07 Self-service sales
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### **§ 111.01 PURPOSE.**

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco-related devices, and such sales, possession and use are violations of both state and federal laws. This chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco-related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke, as stated in M.S. § 144.391, as it may be amended from time to time.

(Ord. 18, passed 12-1-1997)

### **§ 111.02 DEFINITIONS AND INTERPRETATIONS.**

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

the singular. The masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and the term “may” means permissive.

***CHILD-RESISTANT PACKAGING.*** Packaging that meets the definition set forth in CFR, title 16, § 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in CFR, title 16, § 1700.20, as in effect on January 1, 2015.

***CIGAR.*** Any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in M.S. § 297F.01, subd. 3, as it may be amended from time to time.

***COMPLIANCE CHECKS.*** The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products and tobacco-related devices are following and complying with the requirements of this chapter. ***COMPLIANCE CHECKS*** shall involve the use of minors as authorized by this chapter. ***COMPLIANCE CHECKS*** shall also mean the use of minors who attempt to purchase tobacco, tobacco products or tobacco-related devices for educational, research and training purposes as authorized by state and federal laws. ***COMPLIANCE CHECKS*** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products and tobacco-related devices.

***ELECTRONIC DELIVERY DEVICE.*** Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. ***ELECTRONIC DELIVERY DEVICE*** includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. ***ELECTRONIC DELIVERY DEVICE*** includes any component part of a product, whether or not marketed or sold separately. ***ELECTRONIC DELIVERY DEVICE*** does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

***INDIVIDUALLY PACKAGED.*** The practice of selling any tobacco or tobacco product wrapped individually for sale. ***INDIVIDUALLY WRAPPED TOBACCO*** and ***TOBACCO PRODUCTS*** shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered ***INDIVIDUALLY PACKAGED***.

***LICENSED PRODUCTS.*** The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

***LOOSIES.*** The common term used to refer to single cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. ***LOOSIES*** does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

**MINOR.** Any natural person who has not yet reached the age of 21 years.

**MOVEABLE PLACE OF BUSINESS.** Any form of business operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for over-the-counter sales transactions.

**NICOTINE OR LOBELIA DELIVERY PRODUCT.** Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section. **NICOTINE OR LOBELIA DELIVERY PRODUCT** does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

**RETAIL ESTABLISHMENT.** Any place of business where licensed products are available for sale to the general public. **RETAIL ESTABLISHMENTS** shall include, but not be limited to, grocery stores, convenience stores, restaurants, tobacco product shops, liquor stores, gasoline service stations and bars.

**SALE.** Any transfer of goods for money, trade, barter or other consideration.

**SELF-SERVICE MERCHANDISING.** Open displays of licensed products in a retail establishment in any manner where any person shall have access to the licensed products, without the assistance or intervention of the licensee or the licensee’s employee and physical exchange of the licensed products between the customer and the licensee or employee is not required in order to access the licensed product. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

**SMOKING.** Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. **SMOKING** also includes carrying or using an activated electronic delivery device.

**TOBACCO.** Any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. **TOBACCO** does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

**TOBACCO-RELATED DEVICE.** Any rolling papers, wraps, pipes, or other device intentionally designed or intended to be used with tobacco products. **TOBACCO-RELATED DEVICE** includes components of tobacco-related devices or tobacco products, which may be marketed or sold separately. **TOBACCO-RELATED DEVICES** may or may not contain tobacco.

**VENDING MACHINE.** Any mechanical, electric or electronic, or other type of device that dispenses licensed products upon the insertion of money, tokens or other form of payment directly into the device by the person seeking to purchase the licensed products.

**YOUTH-ORIENTED FACILITY.** Any facility with residents, customers, visitors, or inhabitants of which 25% or more are regularly under the age of 21 or that primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21. **YOUTH-ORIENTED FACILITY** includes, but is not limited to, schools, playgrounds, recreation centers, and parks. (Ord. 18, passed 12-1-1997)

### § 111.03 LICENSE REQUIRED; FEES.

(A) No person shall sell or offer to sell any tobacco, tobacco products or tobacco-related device without first having obtained a license to do so from the city.

(1) *Application.*

(a) An application for a license to sell licensed products shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought and any additional information the city deems necessary.

(b) Upon receipt of a completed application, the city's Clerk/Treasurer shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Clerk/Treasurer shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(2) *Action.* The Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the Clerk/Treasurer shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

(3) *Term.* All licenses issued under this chapter shall be valid through December 31 of the same year it is issued.

(4) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in § 111.99 of this chapter.

(5) *Transfers.* All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be permitted.

(6) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.

(7) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

(8) *Renewals.* The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days, but no more than 60 days, before the expiration of the current license.

(9) *Issuance as privilege and not a right.* The issuance of a license is a privilege and does not entitle the license holder to an automatic renewal of the license.

(10) *Proximity to youth-oriented facilities.* No license will be granted to any person for a retail establishment location that is within 1,000 feet of a youth-oriented facility, as measured by the shortest line from the property line of the space to be occupied by the proposed licensee to the nearest property line of a youth-oriented facility. This restriction does not apply to an existing license holder who has been licensed to sell licensed products in that same location for at least one year before the date this section was enacted into law.

(11) *Smoking prohibited.* Smoking, including smoking for the purpose of the sampling of licensed products, is prohibited within the indoor area of any retail establishment licensed under this chapter.

(12) *Samples prohibited.* No person shall distribute samples of any licensed product free of charge or at a nominal cost. The distribution of licensed products as a free donation is prohibited.

(B) No license shall be issued under this chapter until the appropriate license fee is paid in full. The fee for license under this chapter shall be \$20.

(Ord. 18, passed 12-1-1997) Penalty, see § 111.99

#### **§ 111.04 LICENSE DENIAL; BASIS.**

(A) The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.

(B) If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this chapter. The city will provide the license holder with notice of the revocation, along with information on the right to appeal.

(1) The applicant is under the age of 18 years;

(2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision or other regulation relating to licensed products;

(3) The applicant has had a license to sell tobacco, tobacco products or tobacco-related devices revoked within the preceding 12 months of the date of application;

(4) If the applicant fails to provide any information required on the application or provides false or misleading information; and/or

(5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation, from holding such a license.  
(Ord. 18, passed 12-1-1997)

#### § 111.05 PROHIBITED SALES.

(A) *In general.* No person shall sell or offer to sell any licensed product:

(1) By means of any type of vending machine;

(2) By means of loosies;

(3) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other products subject to this chapter;

(4) By means of self-service display. All licensed products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public. Any retailer selling licensed products at the time this chapter is adopted must comply with this section within 90 days of the effective date of this chapter;

(5) By means of delivery sales. All sales of licensed products must be conducted in person, in a licensed retail establishment, in over-the-counter sales transactions; and

(6) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

(B) *Legal age.* No person shall sell any licensed product to any person under the age of 21.

(1) *Age verification.* Licensees must verify by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.

(2) *Signage*. Notice of the legal sales age, age verification requirement, and possible penalties for underage sales must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, must be posted in a manner that is

(C) *Electronic delivery device*. No person shall sell or offer for sale any electronic delivery device.

(D) *Liquid packaging*. No person shall sell or offer to sell any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request by the city, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.  
(Ord. 18, passed 12-1-1997) Penalty, see § 111.99

#### **§ 111.06 VENDING MACHINES.**

It shall be unlawful for any person licensed under this chapter to allow the sale of licensed products by the means of a vending machine unless minors are at times prohibited from entering the licensed establishment.

(Ord. 18, passed 12-1-1997) Penalty, see § 111.99

#### **§ 111.07 SELF-SERVICE SALES.**

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products or tobacco-related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product or the tobacco-related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products or tobacco-related devices at the time this chapter is adopted shall comply with this section within 30 days.  
(Ord. 18, passed 12-1-1997) Penalty, see § 111.99

#### **§ 111.08 RESPONSIBILITY.**

All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee.

(Ord. 18, passed 12-1-1997)

**§ 111.09 COMPLIANCE CHECKS AND INSPECTIONS.**

(A) All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 17 years, but less than 21 years, to enter the licensed premises to attempt to purchase licensed products. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and any minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked.

(B) Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law.

(Ord. 18, passed 12-1-1997)

**§ 111.10 ILLEGAL ACTS.**

Unless otherwise prohibited, the following acts shall be a violation of this chapter.

(A) *Illegal sales.* It shall be a violation of this chapter for any person to sell or otherwise provide any licensed products to any minor.

(B) *Illegal possession.* It shall be a violation of this chapter for any minor to have in his or her possession any licensed products. This division (B) shall not apply to minors lawfully involved in a compliance check.

(C) *Illegal use.* It shall be a violation of this chapter for any minor to smoke, chew, sniff or otherwise use any licensed products.

(D) *Illegal procurement.* It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any licensed products, and it shall be a violation of this chapter for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any licensed products. This division (D) shall not apply to minors lawfully involved in a compliance check.

(E) *Use of false identification.* It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Ord. 18, passed 12-1-1997) Penalty, see § 111.99



**§ 111.11 VIOLATIONS; ADMINISTRATION.**

(A) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(B) *Hearings.*

(1) Upon issuance of a citation, a person accused of violating this chapter may request in writing a hearing on the matter. Hearing requests must be made within ten business days of the issuance of the citation and delivered to the City Clerk or other designated city officer. Failure to properly request a hearing within ten business days of the issuance of the citation will terminate the person's right to a hearing.

(2) The City Clerk or other designated city officer will set the time and place for the hearing. Written notice of the hearing time and place will be mailed or delivered to the accused violator at least ten business days prior to the hearing.

(C) *Hearing Officer.* The City Council shall serve as the Hearing Officer.

(D) *Decision.* If the Hearing Officer determines that a violation of this chapter did occur, that decision, along with the Hearing Officer's reasons for finding a violation and the penalty to be imposed under § 111.99 of this chapter, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the Hearing Officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator. A decision will be issued within ten business days of the hearing.

(E) *Appeals.* Appeals of any decision made by the Hearing Officer shall be filed in the district court for the city in which the alleged violation occurred.  
(Ord. 18, passed 12-1-1997)

**§ 111.12 EXCEPTIONS AND DEFENSES.**

Nothing in this chapter shall prevent the providing of licensed products to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.  
(Ord. 18, passed 12-1-1997)

**§ 111.99 PENALTY.**

(A) *Misdemeanor prosecution.* Nothing in § 111.11 of this chapter shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this chapter. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

(B) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(C) *Licensees and employees.* Any licensee, and any employee of a licensee, found to have violated this chapter shall be charged an administrative fine of \$75 for a first violation of this chapter; \$200 for a second offense at the same licensed premises within a 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

(D) *Other individuals.* Other individuals, other than minors regulated by division (E) below, found to be in violation of this chapter shall be charged an administrative fee of \$50.

(E) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase licensed products shall be charged with the offense, referred to the Community Concern for Youth Program or released at the discretion of the law enforcement officer.

(F) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.

(Ord. 18, passed 12-1-1997)

## CHAPTER 112: AMUSEMENTS AND LEISURE

### Section

112.01 Bingo, raffles and the like

112.02 Pinball machines

112.99 Penalty

### § 112.01 BINGO, RAFFLES AND THE LIKE.

(A) *Provisions of state law adopted.* The provisions of M.S. §§ 349.11 through 349.23, as they may be amended from time to time, regulating to the games of bingo, paddle wheels, tip boards, pull-tabs or ticket jars and lotteries are adopted and made a part of this section as if set out in full. In addition, the regulations of this section shall apply to the conduct of bingo and lotteries and the use of such gambling devices within the city.

(B) *Licenses.*

(1) *License required.* The conduct of bingo and lotteries and the use of gambling devices within the city without a license is prohibited. Any organization authorized by law to conduct bingo occasions, use gambling devices or conduct lotteries may do so only after receiving a license so authorizing from the Council.

(2) *Applications.* An application for a license to use gambling device and conduct raffles or a combination license shall state what gambling devices will be used and the dates and hours when they will be used or lotteries conducted. Each application shall be made to the city's Clerk/Treasurer on a form prescribed by him or her and shall be sufficient to show that the applicant is eligible for a license and that the operations described conform to the law and this section.

(3) *Duration of licenses.* All licenses issued under this section shall be for a period of one year and shall expire on December 31.

(4) *Fees.* The annual license fee for a bingo license shall be \$1. The annual fee for a license to use gambling devices shall be \$1. The annual fee for a combination license shall be \$2.

(5) *Transfer.* No license issued under this section shall be transferred to any other person or organization. No such license shall be transferred to any location other than that specified in the license without the prior approval of the Council.

(C) *Suspension and revocation.*

(1) No license shall have a vested right in any license issued under this section.

(2) Any such license may be suspended for a period not exceeding 60 days or revoked by the Council at any time for violation of any provision of this section or applicable state law. The licensee shall be granted an opportunity for a hearing upon at least ten days' notice before revocation or suspension is ordered.

(3) The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

(Ord. 51, passed 7-2-1984) Penalty, see § 112.99

**§ 112.02 PINBALL MACHINES.**

(A) It shall hereafter be unlawful for any person, partnership or corporation to maintain or operate a pinball game machine within the corporate limits of the city without first securing a license to maintain and operate such pinball game machine as hereafter provided.

(B) Any person, partnership or corporation obtaining a license to maintain and operate a pinball game machine within the corporate limits of the city shall pay a license fee as the Council may, by resolution, direct.

(C) It shall be unlawful for any person, partnership or corporation to maintain or operate a pinball game machine, which shall pay out money or chips redeemable in trade within the corporate limits of the city.

(D) Nothing contained in this section shall be constructed as in any way permitting or licensing the maintenance or operation of slot machines within the corporate limits of the city.

(Ord. 15, passed 5-4-1937) Penalty, see § 112.99

**§ 112.99 PENALTY.**

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

(B) Any person violating any provision of § 112.01 of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than \$500 or more imprisonment for not to exceed 90 days or both, plus in either case the costs of prosecution.

(C) Any person, partnership or corporation maintaining or operating a pin ball game machine within the corporate limits of the city and any person, partnership or corporation violating any of the provisions of § 112.02 of this chapter shall, upon conviction thereof, be punished by a fine of not more than \$100 and the costs of prosecution or by imprisonment for not more than three months.  
(Ord. 15, passed 5-4-1937; Ord. 51, passed 7-2-1984)



## CHAPTER 113: PEDDLING AND SOLICITATIONS

### Section

- 113.01 Definitions
- 113.02 License required
- 113.03 License application
- 113.04 Bond required
- 113.05 License duration
- 113.06 License not transferable
- 113.07 License to be carried
- 113.08 Person in charge of premises
- 113.09 Fees
- 113.10 Exclusions
- 113.11 Prohibited practices
- 113.12 Revocation
- 113.13 Investigation
  
- 113.99 Penalty

### § 113.01 DEFINITIONS.

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

***HAWKER*** and ***PEDDLER***. Any person selling any goods or products from a vehicle pack, going about from place to place carrying said goods for the purpose of sale and delivery. If the goods or products be edible, such person is a ***HAWKER***; if the goods be non-edible, such a person is a ***PEDDLER***.

***LOCALLY GROWN***. Vegetables, butter, eggs or other farm or garden products grown within a 50-mile radius of the city.

***SOLICITOR***. Any person selling goods by sample or taking orders for future delivery and accepting a deposit or advance payment.

**TRANSIENT MERCHANT.** Any person, individual corporation, limited liability company, co-partnership and corporation, both principal and agent, who engages in, does or transacts any temporary and transient business in the city either in one locality or in traveling from place to place, selling goods, wares and merchandise; and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, vacant lot or railroad car for the exhibition and sale of such goods, wares and merchandise.

(Ord. 3, passed - -2017)

### **§ 113.02 LICENSE REQUIRED.**

It is unlawful for any transient merchant, hawker, peddler or solicitor to sell or offer for sale any merchandise or attempt to do any business in the city without having obtained a license from the Council to do so.

(Ord. 3, passed - -2017) Penalty, see § 113.99

### **§ 113.03 LICENSE APPLICATION.**

In addition to the information required by § 113.02 of this chapter, each applicant will provide the following:

(A) The name and address of the applicant and of all persons associated with him or her in the business;

(B) The type of business for which the license is desired;

(C) The place where the business is to be conducted or carried out;

(D) The name and address of the applicant's employer or employers for the last two years prior to the date of the application;

(E) The length of time during which the applicant intends to do business within the city and the dates on which the sale or business will be conducted;

(F) An itemized description of the goods or merchandise to be offered for sale;

(G) A description of the nature and content of any advertising to be done to promote the sale of goods or merchandise;



(H) If the sale is to be conducted by a person or persons other than the applicant, credentials from the applicant shall be furnished authorizing such person or persons to act as the representative of the applicant; and

(I) The applicant's state sales tax permit number.  
(Ord. 3, passed - -2017)

**§ 113.04 BOND REQUIRED.**

No transient merchant, hawker or peddler license shall be issued unless and until the applicant shall have filed with the city a corporate surety bond in the penal sum of \$10,000, or such greater amount as may be determined by the Council, with sufficient sureties and in favor of the city, but for the benefit of any residents who may sustain individual loss by means of fraud, artifice, trick or other means of theft practiced by the licensee on such resident; provided, however, that, a certificate evidencing such bond coverage and the availability of the penalty for the uses and purposes herein expressed, shall be sufficient to satisfy this chapter without a separate bond, in order that the applicant might be spared the necessity for duplicate bonding.

(Ord. 3, passed - -2017)

**§ 113.05 LICENSE DURATION.**

Each license shall be valid for the period specified therein and no license will extend for a period longer than one year.

(Ord. 3, passed - -2017)

**§ 113.06 LICENSE NOT TRANSFERABLE.**

Licenses issued under this chapter shall be non-transferable.

(Ord. 3, passed - -2017)

**§ 113.07 LICENSE TO BE CARRIED.**

All licenses issued under this chapter shall be carried by the licensee or conspicuously posted in his or her place of business and such licensee shall whenever requested show said license to any officer or citizen who demands to see the same.

(Ord. 3, passed - -2017)

**§ 113.08 PERSON IN CHARGE OF PREMISES.**

The owner or person in charge of any premises within the city who enters into an agreement with a transient merchant, as defined herein, to operate or temporarily conduct a transient merchant business on such premises shall be responsible for the conduct of such business on his or her premises, including the application for and obtaining of a license for such transient merchant business as provided in this chapter.

(Ord. 3, passed - -2017)

**§ 113.09 FEES.**

(A) (1) Transient merchant, hawker, peddler or solicitor license fees to include the first three operating days shall be as set by city resolution annually.

(2) In addition to the transient merchant, hawker, peddler or solicitor license fee a per diem of \$10 per day shall be charged after the initial three operating days.

(B) A solicitation license fee shall be as set by city resolution annually.

(Ord. 3, passed - -2017)

**§ 113.10 EXCLUSIONS.**

No applicant shall be required to apply for a license in the following cases:

(A) For the conduct of business by appointment;

(B) For the conduct of garage sales or rummage sales when conducted in or by a non-profit institution, or when conducted upon the premises of the owner of the articles being offered for sale; provided that, such sales do not last longer than three consecutive days in any one-month period of time; and, provided further that, such sales are adequately advertised by notices in a paper of local distribution or by placing of signs announcing the sale upon the premises;

(C) For the conduct of church bazaars or other such sales or fairs when such events are conducted by non-profit institutions; provided, such events do not last longer than 72 hours;

(D) To any regularly scheduled community event such as, but not limited to, the following: Verndale Straw-Hat and Sunbonnet Days; Christmas Tree Lighting; and events of similar nature;

(E) To any sale under court order;

(F) To any bona fide auction sale of a city resident;

(G) To any sale at wholesale to retail dealers only;

(H) Persons making an initial uninvited call upon the householders of the city as preliminary to the subsequent establishment of a regular service on a minimum monthly service for the sale and delivery to customers;

(I) Charitable organizations and representatives thereof, duly registered under the laws of state as set forth in state statutes or specifically exempted from registration under the provisions thereof, including, but not limited to, schools, scouts, organized youth athletic leagues, social, fraternal, educational or related organizations and their representatives; and

(J) Farmers or truck gardeners who order for sale or sell, vegetables, butter, eggs or other farm or garden products which are locally grown; provided, the sale of such items is restricted to the areas designated by the Council; provided that, every such farmer or truck gardener shall upon request of the city's Clerk/Treasurer, present satisfactory proof by means of sworn statements or otherwise, that such farmer or truck gardener is entitled to such license exemption; provided, further, that, whoever shall execute a false sworn statement or make any false representations which shall induce the city to grant such exemption, shall upon conviction thereof, be deemed to be guilty of a misdemeanor.  
(Ord. 3, passed - -2017)

**§ 113.11 PROHIBITED PRACTICES.**

(A) It is unlawful for any transient merchant, hawker, peddler or solicitor to:

(1) Engage in solicitation for any unlawful business or organizational purpose or activity;

(2) Practice harassment, nuisance, theft, deceit or menacing, troublesome or otherwise unlawful activities during the course of solicitation;

(3) Solicit to residential premises displaying at such entrance a sign with the words "Peddlers and Solicitors Prohibited" or "Solicitors Prohibited";

(4) Refuse to leave premises when requested by owner, lessee or person in charge thereof;

(5) Call attention to his or her business or to his or her merchandise by crying out, by blowing a horn, by ringing a bell or by any loud or unusual noise;

(6) Displaying merchandise, parking vehicles or placing temporary structure in such place or position as to prohibit or interfere with the movement of traffic or restrict the view of traffic on any city sidewalk, street or highway;

(7) Displaying or selling merchandise on any right-of-way or public property; and

(8) Soliciting to residential premises other than the hours between 8:00 a.m. through 8:00 p.m.

(B) It is unlawful for any solicitor to offer for sale any of the following items at a flea market, except by an authorized manufacturer's representative:

(1) Infant formula or other food intended primarily for consumption by a child under the age of two years; and

(2) Over-the-counter drugs, medical devices and cosmetics.  
(Ord. 3, passed - -2017) Penalty, see § 113.99

### **§ 113.12 REVOCATION.**

A license issued pursuant to this chapter may be revoked by the Council after notice and hearing for any of the following reasons:

(A) Any fraud, misrepresentation or false statement contained in the application;

(B) Any fraud, misrepresentation or false statement made in connection with the selling of the goods and merchandise offered for sale;

(C) Any violation of any provisions of this chapter; or

(D) The conduct of business by the applicant in an unlawful manner or in a manner which constitutes a breach of peace, nuisance or menace to the health, safety or general welfare of the public.  
(Ord. 3, passed - -2017)

### **§ 113.13 INVESTIGATION.**

(A) All applications for licensing or registration shall be immediately referred to the Chief of Police, and by him or her or other person acting in his or her stead, investigated as to the truth thereof. The Chief of Police shall have 24 hours within which to investigate and make a recommendation thereon.

(B) If he or she finds no past history of the applicant indicating violations similar to those declared unlawful in this chapter, he or she shall recommend issuing a license or approving registration, as the case may be, and the city's Clerk/Treasurer shall forthwith advise the applicant. The city's Clerk/Treasurer shall issue a license, upon payment of the fee therefor, to the approved applicant for business solicitation.

(C) If the Chief of Police finds a past history of the applicant indicating violations similar to those declared unlawful in this chapter, he or she shall recommend denial of the license or registration. In all matters of recommended denial, the applicant shall be forthwith advised thereof, and the application shall

be referred to the Council and considered by it at its next regular or special meeting occurring more than ten days thereafter. The applicant shall be afforded an opportunity to be heard at such meeting.  
(Ord. 3, passed - -2017)

**§ 113.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no other penalty is provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

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

(Ord. 3, passed - -2017)



## **CHAPTER 114: PERSONAL SALES**

### Section

114.01 Garage and rummage sales

#### **§ 114.01 GARAGE AND RUMMAGE SALES.**

For the conduct of garage sales or rummage sales, when conducted in or by a non-profit institution, or when conducted upon the premises of the owner, sales do not last longer than three consecutive days in any one-month period of time; and, provided further that, such sales are adequately advertised by notices in a paper of local distribution or by placing of signs announcing the sale upon the premises.  
(Ord. 68, passed 8-5-1996)





**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. GENERAL OFFENSES**



## CHAPTER 130: GENERAL OFFENSES

### Section

- 130.01 Social hosting
- 130.02 Curfew
- 130.03 Firearms; discharge
- 130.04 Disorderly conduct
  
- 130.99 Penalty

### § 130.01 SOCIAL HOSTING.

(A) *Purpose and findings.* The City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The City Council finds that:

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under 21 years of age are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement;

(2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions;

(3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user;

(4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent is present and condones the activity and, in some circumstances, provides the alcohol;

(5) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption;

(6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs; and

(7) There are times when a legal adult or responsible party is under 21 years of age and is/are present and condone the activity and in some circumstances provide the alcohol.

(B) *Authority.* This section is enacted pursuant to M.S. § 412.221, subd. 32, as it may be amended from time to time.

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

**ALCOHOL.** Ethyl alcohol, hydrated oxide of ethyl or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

**ALCOHOLIC BEVERAGE.** Alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains 0.5% or more of alcohol by volume, and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

**EVENT** or **GATHERING.** Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

**HOST.** To aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event.

**PARENT.** Any person having legal custody of a juvenile:

- (a) As natural, adoptive parent or step-parent;
- (b) As a legal guardian; or
- (c) As a person to whom legal custody has been given by order of the court.

**PERSON.** Any individual, partnership, co-partnership, corporation or any association of one or more individuals.

**RESIDENCE** or **PREMISES.** Any home, yard, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.

**UNDERAGE PERSON.** Any individual under 21 years of age.

(D) *Prohibited acts.*

(1) It is unlawful for any person(s) to:

(a) Host or allow an event or gathering;

(b) At any residence, premises, or on any other private or public property;

(c) Where alcohol or alcoholic beverages are present; and/or

(d) When the person knows or reasonably should know that an underage person will or does:

1. Consume any alcohol or alcoholic beverage;

2. Possess any alcohol or alcohol beverage with the intent to consume it; and/or

3. The person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(2) A person is criminally responsible for violating division (D)(1) above if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(3) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

(E) *Exceptions.*

(1) This section does not apply to conduct solely between an underage person(s) and his and/or her parents while present in the parent's household.

(2) This section does not apply to legally protected religious observances.

(3) This section does not apply to retail intoxicating liquor or 3.2% malt liquor licenses, municipal liquor store or bottle club permit holders who are regulated by M.S. § 340A.503, subd. (b)(1), as it may be amended from time to time.

(4) This section does not apply to situations where underage person(s) are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(5) This chapter does not apply to enforcement activities supervised by a law enforcement agency.

(F) *Enforcement.* This section can be enforced by any licensed police officer in the city. (Ord. 80, passed 6-4-2012) Penalty, see § 130.99

### § 130.02 CURFEW.

(A) Except as hereinafter provided, it is unlawful for any minor under the age of 18 years to loiter, idle or be in or upon the public streets, parks, playgrounds or other public grounds, public places and public buildings or places of amusement, entertainment or refreshment, vacant lot or other unsupervised places, between the hours of 10:00 p.m. and 6:00 a.m. on all nights or days; provided that, the provisions of this section shall not apply to any minor when in the company of his or her parent, guardian or other adult person having the care and custody of such minor, or where such minor is upon some necessary business or errand by permission or direction of his or her parent, legal guardian or other adult person having the care and custody of such minor.

(B) Except as herein after provided, it is unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 18 years to permit such minor to loiter, idle or be in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, or places of amusement, entertainment or refreshment, vacant lots or other unsupervised places during the time prohibited by this section; provided that, the provisions of this section shall not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or when the minor is upon some necessary business or errand by permission or direction of his or her parent or guardian or other adult person having the care and custody of such minor.

(C) Except as hereinafter provided, it is unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment to permit any such minors as are referred to in division (A) above to remain in such places during the times prohibited by this section; provided that, the provisions of this section shall not apply when such minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor, or where such minor is upon some necessary business or errand by permission or direction of his or her parent or guardian or other person having the care and custody of such minor.

(D) (1) The Mayor or Chief of Police, upon the request of the Superintendent of the public school the city, may designate certain nights during the school years as "School Nights" at such times as said school shall be engaged in athletic, musical, dramatic or school activities for the benefit or entertainment of the students. The Mayor or Chief of Police, upon the request of any minister or priest of any church in the city, may designate certain nights during the school year as "Youth Nights" at such times as said churches shall be engaged in athletic, musical, dramatic, social or religious activities for the benefit or entertainment of minors.

(2) The provisions of divisions (A), (B) and (C) above shall not apply to any student under the age of 18 years or to his or her parent, guardian or other adult person having the care and custody of such minor who is lawfully going to, attending or returning from any such school or church function on any designated "School Night" or "Youth Night".

(E) Any minor under the age of 18 years who shall violate the provisions of this section shall be deemed delinquent child, as defined in M.S. § 260B.007, as it may be amended from time to time. (Ord. passed 8-4-2003; Ord. 66, passed 3-1-2004) Penalty, see § 130.99

**§ 130.03 FIREARMS; DISCHARGE.**

(A) The term *FIREARMS*, as used herein, shall mean any gun, including a pistol, from which shot or a projectile is discharged by means of an explosive, gas or compressed air.

(B) No person or persons shall fire or discharge any firearm of any description within the corporate limits of the city.

(C) This section shall not prohibit the carrying and use of firearms by duly authorized police officers and law enforcement officers within the city, or the carrying and use of firearms by any person at any rifle range or trap shooting area, a permit for which has been issued by the Chief of Police. (Ord. 38, passed 11-5-1973) Penalty, see § 130.99

**§ 130.04 DISORDERLY CONDUCT.**

The doing of any of the following acts without authority of law by any persons is hereby declared to be disorderly conduct:

(A) Willfully disturbing any assembly or meeting not lawful in its character or the peace and quiet of any family or neighborhood;

(B) Willfully and lewdly exposing his or her person or the private parts thereof, or procuring another to do so expose himself or herself, and any open and gross lewdness or lascivious behavior or any act of public indecency;

(C) Using profane, vulgar or indecent language in or about any public building, store or place of business, or upon any of the streets, alleys or sidewalks of the city so as to be audible and offensive; and/or

(D) Appearing upon any public streets or other public place in an intoxicated condition. (Ord. 4, passed 4-2-1934) Penalty, see § 130.99

**§ 130.99 PENALTY.**

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

(B) Violation of § 130.01(D) of this chapter is a misdemeanor.

(C) (1) Any parent, legal guardian or other adult person who violate the provisions of § 130.02(B) of this chapter shall, upon conviction thereof, be guilty of a misdemeanor.

(2) Any person, firm or corporation operating or in charge of any place of amusement, entertainment or refreshment who shall violate the provisions of § 130.02(C) of this chapter shall, upon conviction thereof, shall be guilty of a misdemeanor.

(D) Any person violating any provision of § 130.03 of this chapter shall, upon conviction thereof, be punished by a fine of not more than \$300 or in default thereof by imprisonment for a term not exceeding 90 days.

(E) Disorderly conduct is hereby prohibited and anyone doing any of the acts set out in § 130.04 of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not to exceed \$100 or by imprisonment in the county jail for not to exceed 90 days, or by both, together with the cost of prosecution in addition.

(Ord. 4, passed 4-2-1934; Ord. 38, passed 11-5-1973; Ord. 66, passed 3-1-2004; Ord. 80, passed 6-4-2012)



**TITLE XV: LAND USAGE**

Chapter

**150. SUBDIVISIONS AND ZONING**



## CHAPTER 150: SUBDIVISIONS AND ZONING

### Section

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**GENERAL PROVISIONS**

**§ 150.001 TITLE.**

This chapter, from the date of its passage, shall be titled “Zoning and Subdivision Ordinance for the City of Verndale, Minnesota”.

(Ord. passed - -2007)

**§ 150.002 PURPOSE.**

The purpose of this chapter is to promote the public health, safety, comfort and general welfare of the people of the city. To accomplish this end, this chapter shall regulate the location, construction, reconstruction and alteration and use of structures and regulate the height and bulk of buildings hereafter erected; provide minimum sanitation standards; and regulate and determine minimum lot size and dimension standards for each zoning district.

(Ord. passed - -2007)

**§ 150.003 LEGAL AUTHORITY.**

This chapter is enacted pursuant to the authority granted by state statutes, in particular the Municipal Planning Act of 1983, §§ 462.351 to 461.364, as they may be amended from time to time.

(Ord. passed - -2007)

#### § 150.004 RULES OF CONSTRUCTION.

For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows.

(A) The word “person” includes a firm, association, partnership, trust, company or corporation, as well as an individual.

(B) The word “shall” is mandatory; the word “may” is permissive.

(C) The present tense includes the future tense, the singular includes the plural and the plural number includes the singular.

(D) The words “used” or “occupied” include the words intended, designed or arranged to be used or occupied.

(E) The word “lot” includes the words plot, piece or parcel and all are interchangeable.

(F) The masculine gender includes the feminine gender and the neuter gender.

(G) All horizontal and vertical measured distances shall be expressed to the nearest one-tenth of a foot, unless stated otherwise.

(Ord. passed - -2007)

#### § 150.005 DEFINITIONS.

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

**ABANDONED BUILDING.** A building, as defined hereafter, on public or private property, which no longer serves a practical use and, due to its location or structural condition, is considered a safety hazard in the opinion of the Zoning Administrator.

**ABANDONED MOTOR VEHICLE.** A motor vehicle as defined in M.S. § 169.011, subd. 42, as it may be amended from time to time, that:

(1) Has remained on public property in an inoperable condition for more than 48 hours;

(2) Has remained on private property for more than 48 hours without the permission of the land owner; or

(3) Has remained on private property for more than 30 days and is inoperable or is unlicensed, unless kept in a garage or other storage structure.

**ABUTTING.** Making direct contact with or immediately bordering.

**ACCESSORY STRUCTURE.** A building or other structure that is supportive, secondary and subordinate in use and/or size to the principal structure on the same parcel or lot which, because of the nature of its use, can be reasonably located at or greater than the minimum structure setbacks. Includes all structures not considered the principal structure, including, but not limited to, television towers, antennas, dish antennas, outdoor swimming pools, outdoor hot tubs, detached garages, sheds and guest quarters.

**ACCESSORY USE.** A use naturally and normally incident and subordinate to the main use of the premises.

**ADJACENT.** In close proximity to or neighboring, not necessarily abutting.

**ADULT BOOK AND/OR MEDIA STORE.** An establishment which has a substantial portion (at least 25% of utilized floor area) of its stock in trade or stock on display books, magazines, films, videotapes or other media which are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**ADULT CABARET.** An establishment which provides dancing or other live entertainment, and such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of specified sexual activities or specified anatomical areas.

**ADULT ESTABLISHMENT.** Any business which offers to its patrons services, entertainment or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses and other adult establishments.

**ADULT HOTEL OR MOTEL.** A hotel or motel wherein material is presented which is distinguished by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**ADULT MINI-MOTION PICTURE THEATER.**

(1) A theater in an enclosed building, with a capacity for less than 50 persons used for presenting motion pictures, including, but not limited to, film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(2) Any business which presents motion pictures, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, for viewing on the premises, including, but not limited to, private booths, viewing by means of coin-operated or other mechanical devices, and the viewing of excerpts of motion pictures offered for sale or rent.

**ADULT MOTION PICTURE ARCADE.** Any place wherein coin- or token-operated or electronically, electrically or mechanically controlled or operated still or motion pictures machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

**ADULT MOTION PICTURE THEATER.** A theater in an enclosed building with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including, but not limited to, film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**ADULT NOVELTY BUSINESS.** A business which sells, offers to sell or displays devices which stimulate human genitals or devices which are designed for sexual stimulation.

**ADULT USE.** Any of the adult activities and businesses described above constitutes “adult businesses”, which are subject to the regulation of this chapter.

**AGENT.** Any person acting on behalf of a landowner in dealing with activities under the jurisdiction of this chapter, including, but not limited to, realtors, contractors or attorneys.

**ANIMAL HUSBANDRY.** The care or breeding of domestic animals such as cattle, hogs, sheep, horses, poultry, dogs (more than two) or cats (more than three) for the occupants of a property.

**ANTENNA.** Any structure or device used or the purpose of collecting or radiating electromagnetic waves including, but not limited to, direction antennas, such as panels, microwave dishes, satellite dishes and omni-directional antennas such as whip antennas. Dishes under 36 inches in diameter are excluded from the definition of **ANTENNA**.

**APARTMENT.** A room or suite of rooms that is designed for, intended for or occupied as a residence by a family or individual, and is equipped with sanitary facilities.

**APPEAL.** An application for the review of an order, requirement, decision, determination or interpretation of this chapter made by an administrative office in the application and/or enforcement of this chapter.

**ATTACHED.** Two buildings or structures that combine to form one building or structure through the use of at least one common wall, not including a breezeway.

**AUTO TRIP.** Transport in a vehicle that includes both an arrival and a departure from a location.

**BLOCK.** An area of land bounded by streets, exterior boundary lines and/or bodies of water.

**BREEZEWAY.** A covered or enclosed walkway that physically connects two or more or structures.



**BUILDING.** Any structure having a roof, or completely enclosing and roofing an area for the purpose of storage, shelter or occupancy.

**BUILDING HEIGHT.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height between the eaves and the highest ridge of gable, hip or gambrel roofs or ten feet below the peak, whichever is greater.

**BUILDING LINE.** A line parallel to a lot line at the required setback beyond which a structure may not extend.

**BUILDING PERMIT.** A permit authorizing an applicant under this chapter to undertake construction or other development activity.

**CAMPING.** Habitation of a temporary structure.

**CITY CLERK/TREASURER.** The duly appointed person responsible for the administration of the city affairs.

**CITY COUNCIL.** The duly elected governing body of the city.

**CITY SEWER OR WATER SYSTEM.** A system of municipally-maintained utilities, approved by the state, and serving more than one building or property.

**COMMERCIAL USE.** The principal use of land or buildings for the sale, lease, rental, trade of products, good or services.

**COMPREHENSIVE PLAN.** Also referred to as **COMMUNITY PLAN.** A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development of the city.

**CONDITIONAL USE.** A land use or development that would not be appropriate without restriction, but may be specifically allowed without restrictions of conditions as determined by the Council upon a finding that:

- (1) The use or development is an appropriate conditional use in the land use zone;
- (2) The use or development, with conditions, conforms to the Comprehensive Land Use Plan;
- (3) The use, with conditions, is compatible with the existing neighborhood; and
- (4) The use, with conditions, would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance or prosperity of the city.

**CONTIGUOUS.** The sharing of a common border at more than a single point. Lots, parcels or boundaries may be considered **CONTIGUOUS** where separated by rights-of-way, rivers or streams.

**COUNCIL.** The City Council, as established by state law.

**CUL-DE-SAC.** A local street terminating in a vehicular turn-around.

**DUPLEX, TRIPLEX or QUAD.** A structure on a single lot having two-, three- or four-dwelling units, respectively, being attached by common walls and each being equipped with separate sleeping, cooking, eating, living and sanitation facilities.

**DWELLING, GUEST QUARTERS.** A structure, not for sale or lease, used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling on the property. Any accessory structure with kitchen or bathroom facilities shall be considered a **DWELLING, GUEST QUARTERS**.

**DWELLING, MULTI-FAMILY.** Two or more dwelling units attached together by any point including duplexes, triplexes and multi-level units, regardless of the type of ownership.

**DWELLING, SINGLE-FAMILY.** A dwelling unit totally separated and detached from any other dwelling unit.

**DWELLING SITE.** A designated location for residential use by one or more persons using temporary or moveable shelter including camping and recreational vehicle sites.

**DWELLING UNIT.** A structure or portion of a structure or other shelter designed as a short- or long-term living quarters for one or more persons, including rental or time-share accommodations, such as a motel, hotel, resort rooms and resort cabins.

**DWELLING WIDTH.** The smallest horizontal dimension of the major portion of a dwelling.

**ENGINEER.** The engineer duly appointed by the Council to perform technical services for the city.

**EXTERIOR STORAGE.** Storage of goods, materials, equipment and manufactured products outside of a fully-enclosed building.

**FAMILY.** An individual, or two or more persons related by blood, marriage, adoption or a relationship legally recognized in the state, or not more than five unrelated persons maintaining a common household.

**FENCE.** A constructed barrier, including berms, intended to prevent escape or intrusion, or to mark a boundary, to shield or screen view or to perform any similar function.

**FOOTPRINT.** The horizontal extent to which a structure covers the ground plan as represented in a plan view including cantilevered building elements, but excluding eaves and similar architectural projections of the roof plane.

**FOUNDATION.** A concrete, concrete and block, or treated wood portion of a structure that supports the bearing loads of the superstructure and penetrates the ground providing frost protection. Must meet the provisions of the Building Code adopted by the state. Concrete pillars may be used as a **FOUNDATION** of manufactured homes so long as the installation is done to the manufacturer's specifications and skirting is provided around the perimeter to provide the appearance of a completely enclosed foundation.

**FRONTAGE.** The uninterrupted front boundary line of a lot, or the length of such line, that abuts on a street.

**GREEN SPACE.** Privately owned property permanently dedicated by covenant or deed restriction to vegetate ground coverage, with allowance for use as recreational facilities, tree coverage, water course, sewage disposal or other similar low-impact uses. Public property permanently dedicated for a park, vegetative buffer, tree coverage or resource.

**HARDSHIP.** The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property and were not created by the landowner and a variance, if granted, would not alter the essential character of the locality. Economic considerations alone shall not constitute a **HARDSHIP**.

**HOME OCCUPATION.** A use of commercial nature conducted by an occupant entirely within the dwelling or accessory buildings which use is clearly incidental and secondary to the use of the dwelling residential purposes and does not change the residential character thereof.

**IMPERVIOUS SURFACE.** The horizontal area of buildings, patios, walks, driveways, accessory structures and other surfaces generally impervious to the penetration of storm water, including gravel drives and parking areas.

**INDUSTRIAL USE.** The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

**ISTS.** Individual sewage treatment system. Also referred to as **ON-SITE SEPTIC SYSTEMS**.

**JUNK YARD.** An area where used waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleared, parked, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber products, bottles and used building materials. Storage of materials in conjunction with the construction of a manufacturing process shall not be included. Three or more automobiles without current licenses constitute a **JUNK YARD**. Such use shall not include putrid wastes, such as garbage.

**LANDSCAPING.** The placement of trees, shrubs, water displays, rocks, arbors, decorative timbers, grass, walls and earth mounds or the use of existing natural vegetative cover equal thereto.

**LICENSED ENGINEER.** A person licensed as a professional engineer by the state.

**LICENSED SURVEYOR.** A person licensed as a professional surveyor by the state.

**LITTER.** Waste materials including, but not limited to, cans, bottles, plastic and paper wrappings or containers.

**LOT.** A parcel, piece or portion of land described by metes and bounds, registered land survey, auditor's plat or subdivision plat and separated from other parcels or portions of land by said description for purposes of sale, lease, mortgage, building or separation.

**LOT AREA.** The horizontal area of a lot bounded by the lot lines and the ordinary high water level if bounded by water.

**LOT, CORNER.** A lot situated at the junction of and abutting on two or more intersecting streets. A **CORNER LOT** has two front yards and two side yard. Each side of a building that faces a street is a front of that building.

**LOT, FRONT.** The boundary of a lot which abuts on a public right-of-way.

**LOT LINE.** The property lines bounding a lot; except that, where the description extends into a public right-of-way, the right-of-way line shall be considered the **LOT LINE**.

**LOT, PRE-EXISTING.** A lot which is one unit of a subdivision plat heretofore duly approved and filed or one unit of an auditor's subdivision or registered land survey, or a lot created by metes and bounds that has been recorded in the office of the County Recorder prior to the effective date of this chapter.

**LOT WIDTH.** The shortest distance between lot lines measured at the midpoint of the building line.

**MAINTENANCE.** The normal upkeep of a structure including the replacement of windows, siding, roofs, non-bearing walls or interior remodeling that does not expand the footprint of the existing structure, add volume to the usable living space or intensity a non-conforming use.

**MANUFACTURED HOME.** 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 therein; except that, the term 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 M.S. Ch. 327, as it may be amended from time to time.

**METES AND BOUNDS.** A method of property description utilizing directions and distances commencing from and terminating at an identifiable point.

**MOTEL/HOTEL.** A commercial business with a central management to provide lodging and may provide related facilities such as restaurants, bars and other recreational amenities. This does not include a bed and breakfast inn.

**NON-CONFORMING.** The building, structure or land lawfully existing prior to and not in conformance with the provisions of this chapter.

**NUISANCE.** By authority and direction of M.S. §§ 412.221, subd. 23 and 24, as they may be amended from time to time, **NUISANCE** is any thing that interferes with the use or enjoyment of property, endangers personal health or public safety, or is offensive to the senses such as excessive smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact and other similar interferences or offenses. See §§ 150.080 through 150.090 of this chapter.

**OFF-STREET PARKING.** A designated space or area of land with a paved or all-weather surface not within a public street or right-of-way and sized and used for the parking of vehicles.

**PARKING SPACE.** A ten-foot by 20-foot site maintained and sized to accommodate the parking of one automobile.

**PARTY WALL** or **FLOOR.** A common wall which divides two independent dwelling units or businesses.

**PERMITTED USE.** A land use conforming to the character of a zoning district which is permitted by ordinance requiring only a building permit issued by the Zoning Administrator.

**PET.** An animal, bird, reptile or fish commonly associated with human habitation, not considered under animal husbandry and not raised for the production of income.

**PORCH.** A covered platform attached to a structure.

**PORCH, ENCLOSED.** A covered platform attached to a structure with more permanent enclosures than those described in **PORCH**.

**PORTABLE.** Capable of being transferred or moved from one place to another.

**PRINCIPAL STRUCTURE** or **USE.** The single primary structure or use on a lot, as distinguished from accessory uses or structures. To be considered a **PRINCIPAL STRUCTURE**, the structure must have a footprint of at least 400 square feet.

**RECORDER.** The County Recorder of Wadena County.

**RECREATIONAL EQUIPMENT.** Equipment, both motorized and non-motorized, that is subject to licensing by the state and is designed primarily for recreational use.

**RECREATIONAL VEHICLE.** Vehicles for recreational use that can be driven, towed or hauled. These vehicles are designed to be temporary living space for camping or travel use. *RVs* shall include travel trailers, camper trailers, truck campers, self-propelled motor homes and other similar vehicles.

**RIGHT-OF-WAY.** A parcel of property dedicated to the public, connecting to other public rights-of-way, which affords primary access by pedestrians and vehicles to abutting properties.

**SCREENING.** Fencing, an earthen berm or vegetative growth that visually separates one object from another.

**SEMI-PUBLIC USE.** The use of land by private non-profit organizations to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**SETBACK.** The minimum horizontal distance between a structure, sewage treatment system or other facility and another sewage treatment system, road, highway, property line or other facility. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

**SETBACK, ROAD.** The closest horizontal distance between the road right-of-way line and the foundation or wall of a structure. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

**SEWAGE TREATMENT SYSTEM.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in State Pollution Control Agency, Minn. Rules, Ch. 7080. Also referred to as *ISTS*.

**SEWER SYSTEM.** Pipe lines or conduits, pumping stations and forcemains, and all other constructions, devices, appliances or appurtenances used for conducting sewage or industrial waste or other waste to a point of ultimate disposal.

**SIGNS.** A name, identification, description, display, illustration, advertisement or device which is displayed for the purpose of attracting attention to a person, product, place, activity, institution or business.

**SIGNIFICANT HISTORICAL SITE.** 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, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A **HISTORICAL SITE** meets this criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be **SIGNIFICANT HISTORICAL SITES**.

***SPECIFIED ANATOMICAL AREAS (ADULT USE).*** Areas that include any less than completely and opaquely covered human genitals, pubic region or pubic hair, buttocks, and female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if opaquely covered.

***SPECIFIED SEXUAL ACTIVITIES (ADULT USE).*** Activities that include any of the following conditions:

(1) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital or oral-genital intercourse, whether between human beings or between a human being and an animal;

(2) Sado-masochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume, or the condition of being fettered, bound or otherwise physically restricted on the part of one so clothed;

(3) Masturbation or lewd exhibitions of the genitals including any explicit, close-up presentation of a human genital organ, clothed or unclothed; and

(4) Physical contact or simulated physical contact with the clothed or unclothed pubic area or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex, or between humans and animals in an act of apparent sexual stimulation or gratification.

***STOOP.*** An entry platform into a structure.

***STORAGE SHED.*** Refer to ***ACCESSORY STRUCTURE.***

***STREET.*** A public right-of-way that provides primary vehicular access to abutting properties and shall include avenue, drive, road or highway and the like.

***STRUCTURE.*** Any building, appurtenance including decks or other facility constructed, placed or erected by humans, except aerial or underground utility lines such as sewer, electric, telephone, telegraph, gas lines and except walks or steps on grade not more than four feet wide, stoops not exceeding 30 square feet, temporary furniture, planters or decorative materials and retaining walls comprised of wood or decorative block.

***SUBSTANDARD LOT.*** A lot that is non-conforming.

***SUBSTANDARD USE.*** A use that does not conform to the provisions of this chapter.

***TEMPORARY.*** A use or structure that lasts longer than three days and is discontinued within 14 days. Any use or structure existing longer than 14 days, except where specifically provided for in this chapter, shall be considered permanent unless a specific date of discontinuation, agreeable to the Zoning Administrator and to be reviewed by the City Council, has been submitted in writing to the city.

**TEMPORARY STRUCTURE.** A structure of a temporary character including, but not limited to, recreational vehicles, tents and camping trailers.

**TOWER.** A structure situated on a site that is intended for transmitting or receiving television, radio, telephone, cellular or wireless communications.

**VARIANCE.**

(1) A legally permitted deviation from the provisions of this chapter as deemed necessary by the City Council when the strict interpretation of this chapter would create undue hardship and impractical because of circumstances relating to lot size, shape, topography or other characteristics of the property not created by the landowner, and when the deviation from the ordinance, with any attached conditions, will still be in keeping with the spirit and intent of this chapter.

(2) Variances cannot create a land use that is not permitted or is prohibited in a zone.

**WALKWAY.** A parcel of land dedicated to the public for non-vehicular access purposes.

**WETLAND.**

(1) Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

(2) Such land is subject to periodic or continued inundation by water such as floodplains, marshes, swamps and peat lands and is classified as provided for in Circular 30 from the U.S. Fish and Wildlife Service.

**ZONING ADMINISTRATOR.** The duly appointed person responsible for the enforcement and administration of this chapter.

**ZONING DISTRICT.** An area of the city defined on the zoning map, having uniform zoning provisions.

**ZONING MAP.** The map of the city, amended periodically, which defines the boundaries of the zoning districts.

(Ord. passed - -2007)

**§ 150.006 APPLICATION.**

(A) The provisions of this chapter shall be held to be the minimum requirements for the maintenance of the public health, safety and welfare.



(B) Where the provisions of this chapter are either more restrictive or less restrictive than applicable provision of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive condition, standard or requirement shall prevail, except as authorized by the more restrictive agency.

(C) 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 nor in any manner which is not in conformity with this chapter.

(D) Any existing structure or use of property subject to conditions of approval for a variance, conditional use permit or other land use application must have a land use certificate of compliance issued within 12 months of the approval. The land use certificate of compliance, when issued, shall state that the building or use appears to be in compliance with the conditions of approval.

(E) Ambiguities in this chapter shall be resolved by interpretation of the City Council and Zoning Administrator. If an applicant wishes to appeal the interpretation of the Administrator, an appeal can be made through a hearing of the City Council.  
(Ord. passed - -2007)

**§ 150.007 ENVIRONMENTAL DOCUMENTS AND CONCURRENT PERMITS.**

(A) It shall be the property owner's responsibility to secure necessary concurrent permits such as Minnesota Pollution Control Agency, state waste disposal permits; Health Department permits; DNR planned unit development permits; Corps of Engineers permits, DNR public water permits and DNR water appropriation permits. Approval by the city does not imply approval by other agencies.

(B) The city will prepare an environmental assessment worksheet (EAW) where a proposed project exceeds the limits defined in the Environmental Quality Council's rules and regulations for Environmental review program or as requested by the City Council or petitioned by the public.

(C) (1) The administration of an EAW or and environmental impact statement (EIS) shall be in accordance with the rules and regulations of the state's Environmental Quality Board.

(2) The Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document.

(3) The City Council shall review each document with the decision being final.  
(Ord. passed - -2007)

**§ 150.008 USE OF PRE-EXISTING LOTS.**

(A) A lot, pre-existing for which a deed, recorded contract for deed or other legal conveyance or plat has been executed prior the effective date of this chapter shall be deemed a buildable lot without

requiring a variance provided it has at least 80% of required lot area and lot width at the ordinary high water mark and building line, all the setbacks can be maintained, and sanitary provisions for well and sewage disposal can be maintained.

(B) (1) If two or more pre-existing contiguous lots in total could not be divided into two or more lots meeting the requirements of division (A) above, and are held by the same owner on the effective date of this chapter, they will be considered one lot for building and zoning purposes.

(2) A covenant, duly filed and recorded, shall be required before a building permit is issued thereon.

(C) Lots joined together for zoning permit applications shall not be divided in the future, but shall be tied together by restriction filed with the County Recorder.  
(Ord. passed - -2007)

#### **§ 150.009 NON-CONFORMING STRUCTURES AND USES.**

Any structure or use legally existing upon the effective date of the adoption of this chapter and which does not conform to the provisions of this chapter may be continued subject to the following.

(A) No such structure or use shall be expanded, enlarged or intensified, except in conformity with the provisions of this chapter and division (B) below, with consideration for variances thereto.

(B) Where a parcel is voluntarily redeveloped to the extent that 50% or more of the footprint building area, above the foundation, on the parcel, is removed, all non-conforming structures on the parcel must be modified to conform to this chapter.

(C) If a non-conforming structure is damaged, by any cause, to an extent where the repair costs exceed 50% of its assessed value immediately prior to damage, then the structure or its replacement shall thereafter conform to this chapter.

(D) Normal maintenance of a building or other structure containing or relating to a lawful non-conforming use is permitted when it includes necessary non-structural repairs that do not extend, intensify or increase the size or shape of the non-conforming building or use.

(E) A lawful, non-conforming use may be changed to lessen the non-conformity of use. Once a non-conforming use has been changed, it shall not thereafter be altered to increase the non-conformity.  
(Ord. passed - -2007)

#### **§ 150.010 BUILDING STANDARDS.**

(A) (1) All structures and appurtenances shall be constructed in accordance with the general standards of the building industry.

(2) The city does not examine plans, nor assume liability, for the structural stability or quality of any structures.

(B) All dwelling units shall be a minimum of 20 feet wide and shall be placed on a foundation, except in designated mobile home parks where 14 feet is the required minimum width.

(C) Any new structure constructed or placed after the date of this chapter and not on a permanent foundation shall be considered a temporary structure.

(D) New manufactured homes and mobile homes shall be installed by a licensed installer and a copy of the installation compliance certificate shall be submitted to the city prior to occupancy of the dwelling.

(E) For dwellings to be moved onto a property, excluding manufactured homes that have never been occupied, the following shall be applicable.

(1) (a) Permit issuance shall be made only by motion of the City Council.

(b) A public hearing is not required for approval.

(2) Prior to permit issuance, the property owner shall provide documentation of a certified home inspection including the following, at a minimum:

(a) Certification that the electrical wiring meets state codes;

(b) Certification that the plumbing meets state codes;

(c) An evaluation of foundation adaptability and condition;

(d) An evaluation of roof condition;

(e) An evaluation of structural integrity; and

(f) Certification that all doors, windows and siding are in acceptable condition.

(g) The dwelling, once in place, must meet all municipal ordinances, with consideration given for approved variances.

(F) Sewage treatment systems shall conform to State Pollution Control Agency, Minn. Rules, Ch. 7080.

(G) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state's Department of Health and the MPCA.

(H) Plumbing and electrical facilities installed after the date of this chapter in all structures shall conform to the State Plumbing Code and State Electrical Code, respectively.

(Ord. passed - -2007)

#### **§ 150.011 OTHER STANDARDS.**

(A) The provisions of this chapter do not take precedent over other federal, state or local laws that may be more restrictive.

(B) In the case of a more restrictive standard applied by a governing body that has land use authority within the city, the non-local standard would apply.

(C) In the case where this chapter is the most restrictive standard, the provisions of this chapter shall apply.

(Ord. passed - -2007)

#### **§ 150.012 SEPARABILITY.**

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. passed - -2007)

#### **§ 150.013 SUPREMACY.**

(A) When any condition implied by this chapter on the use of land or building is either more restrictive or less restrictive than applicable conditions imposed by statute, rules and regulations, other city ordinance or regulation, or other jurisdiction, the more restrictive shall apply.

(B) The ordinance does not abrogate any easements, restrictions or covenants imposed on the land by private declaration or agreement, but where such provisions are less restrictive than an applicable provision of this chapter, the ordinance shall prevail.

(Ord. passed - -2007)

**ZONING DISTRICTS**

**§ 150.025 CREATION OF ZONING DISTRICTS.**

The city is hereby divided into zoning districts as shown on the official zoning district map, which may be subsequently amended by the procedures outlines in this chapter.  
(Ord. passed - -2007)

**§ 150.026 DISTRICTS FOR ANNEXED AND UNZONED AREAS.**

(A) *Annexed area.* Areas hereafter annexed to the city shall be considered to be in the residential district until placed wholly or partly in another district by amendment as provided for herein.

(B) *Unzoned area.* Areas not included in any district shall be considered reserved for public use and purposes to the extent necessary.  
(Ord. passed - -2007)

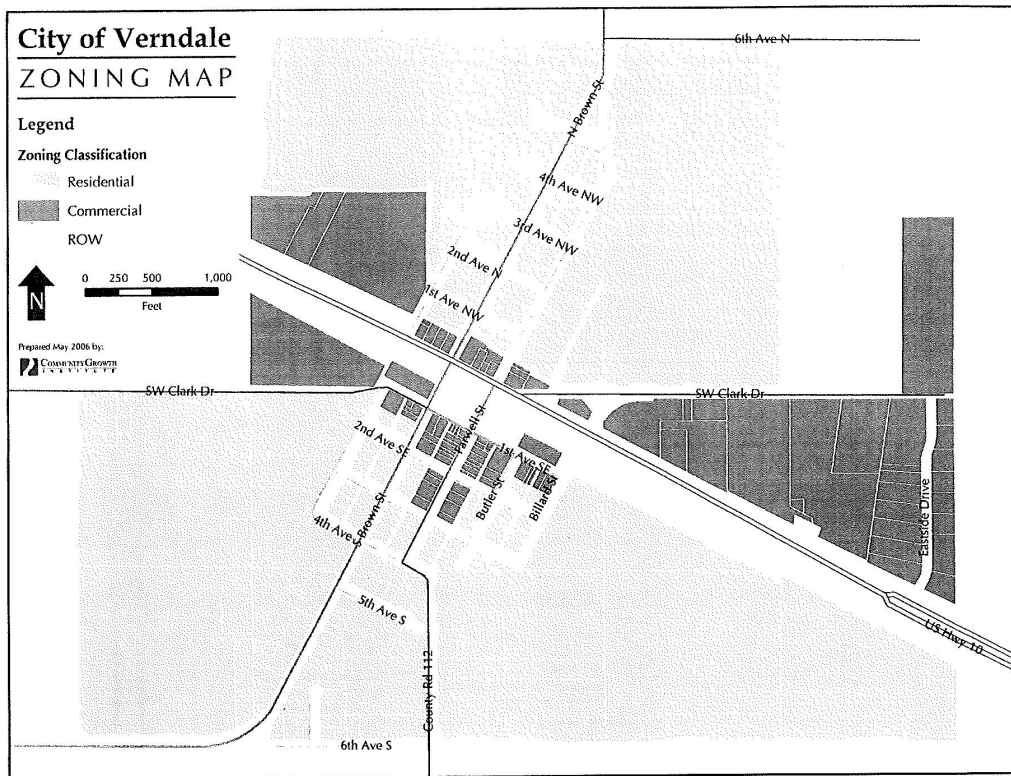
**§ 150.027 ESTABLISHMENT OF DISTRICTS AND DISTRICT MAP.**

Certain districts are hereby created which shall be shown upon the (district) map which is incorporated herein and a part hereof. Said map and all notation, references and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth by said map were all duly described herein:

(A) R - Residential; and

(B) C - Commercial.

## Verndale - Land Usage



(Ord. passed - -2007)

### § 150.028 CRITERIA FOR LAND USE CATEGORIES.

The following criteria shall be used in establishing the city's zoning map and any future amendments to the map:

- (A) Preservation of natural sensitive areas;
- (B) Present ownership and development;
- (C) Soil types and their engineering capabilities;
- (D) Topographic characteristics;
- (E) Vegetative cover;
- (F) Other physical characteristics;
- (G) Recreational use of the area and any surface waters;

(H) Road and service center accessibility;

(I) Socio-economic development needs of the public;

(J) Availability of public sewer and water services;

(K) The necessity to preserve and restore certain areas having significant historical or ecological value;

(L) Conflicts between land uses and impacts of commercial uses or higher densities on adjacent properties;

(M) Alternatives available for desired land use;

(N) Prevention of spot zoning; and

(O) Conformance with the city's Community Plan.  
(Ord. passed - -2007)

***R - RESIDENTIAL DISTRICT***

**§ 150.040 PURPOSE.**

This district is intended to establish an area of primarily residential uses.  
(Ord. passed - -2007)

**§ 150.041 PERMITTED USES.**

(A) Single-family dwellings;

(B) Public buildings;

(C) Public and private parks;

(D) Medical facilities; and

(E) Temporary structures for less than 60 days.  
(Ord. passed - -2007)

**§ 150.042 CONDITIONAL USES.**

(A) Commercial and industrial uses may be allowed if found by the City Council not to be detrimental to the general public health and welfare of the residents of the city;

(B) Multi-family dwellings;

(C) Home occupations;

(D) Cemetery;

(E) Mobile/manufactured home;

(F) Manufactured home park;

(G) Semi-public use; and

(H) Temporary structures for greater than 60 days.

(Ord. passed - -2007)

**§ 150.043 ACCESSORY USES.**

Uses incidental to the principal uses and structures are allowed unless otherwise provided for by this chapter.

(Ord. passed - -2007)

**§ 150.044 MINIMUM LOT AREA, YARD AND SETBACK REQUIREMENTS.**

(A) Lot area: 4,500 square feet;

(B) Lot depth: 100 feet;

(C) Lot width 45 feet;

(D) Corner lot width: 60 feet; and

(E) Setback:

(1) Front yard: 25 feet;

(2) Side yard: ten feet; and



(3) Rear yard: ten feet.

(Ord. passed - -2007)

**§ 150.045 OTHER REQUIREMENTS.**

(A) All manufactured homes shall be skirted with approved skirting and correspond to the homes within 30 days of occupancy and be such as to be a permanent part of the home structure.

(B) No manufactured homes, other than a mobile home park, are allowed within the city limits without a conditional use permit and then only as living quarters of a reasonable length of time, while a permanent dwelling is being built. If a manufactured home or trailer is on the host's lot for greater than seven days, a visiting family may obtain a conditional use permit for a maximum of 30 days.

(C) Existing manufactured homes may continue in their present location, but may not be replaced if vacated, moved or destroyed; provided, however, that, any such replacement may be made if a variance is obtained in accordance with § 150.143 of this chapter; and, provided further that, an existing manufactured home may be replaced by the same owner with a newer manufactured home of greater value if a variance is obtained in accordance with § 150.143 of this chapter. Divisions (A) and (B) above shall not apply to those manufactured homes that comply with the provisions of M.S. §§ 327.31 through 327.35, as they may be amended from time to time, and the following design standards.

(1) The manufactured home must contain a permanent concrete or wood foundation which the manufactured home will be anchored to.

(2) The manufactured home will have a minimum width of 14 feet and a minimum wall thickness of six inches.

(D) All exterior property areas shall be maintained in a clean and sanitary condition, free from any accumulation of refuse or garbage (defined as waste material). There shall be proof of weekly garbage pickup. The owner of the property is the responsible party.

(E) All sewer and water facilities shall be hooked up and operational before occupation.

(F) Those who are unable to hook-up to the city sewer shall have a sanitary septic system which meets county standards and the standards set forth in State Pollution Control Agency, Minn. Rules, Ch. 7080.

(G) Guest dwellings may be allowed; provided that, the structure meets the standards outlined in this section.

(1) The guest dwelling shall be located, along with the principal structure, on a lot meeting the lot size requirements outlined herein.

(2) The guest dwelling shall not cover more than 700 square feet of land and must not exceed 15 feet in height.

(H) Lots joined together for building permit applications shall not be divided in the future, but shall be tied together with restriction filed with the County Recorder permanently requiring that the lots be considered as one lot only.

(I) Buildings with four or more units shall meet the requirements of the International Building Code. Multi-family buildings shall have one-hour fire rating on all party walls and floors and shall be designed to a 45-decibel rating between units. Visual screening shall be provided in the side yard setback area when adjacent to single-family residences.

(Ord. passed - -2007)

### *C - COMMERCIAL DISTRICT*

#### **§ 150.060 PURPOSE.**

The Commercial District is designed to provide for the convenient highway-oriented business facilities and to satisfy the shopping needs of the people.

(Ord. passed - -2007)

#### **§ 150.061 PERMITTED USES.**

(A) All bona fide commercial uses, as defined by this chapter, that are not detrimental to the general health and welfare of the residents of the city;

(B) Hotel/motel;

(C) Medical facilities; and

(D) Semi-public uses.

(Ord. passed - -2007)

**§ 150.062 CONDITIONAL USES.**

(A) Multi-family dwellings;

(B) Industrial uses; and

(C) Adult uses.

(Ord. passed - -2007)

**§ 150.063 MINIMUM LOT AREA, YARD AND SETBACK REQUIREMENTS.**

(A) Lot area: 2,250 square feet;

(B) Lot width: 25 feet; and

(C) Setback:

(1) Front yard: one foot;

(2) Side yard: zero feet; and

(3) Rear yard: ten feet.

(Ord. passed - -2007)

**§ 150.064 VISUAL STANDARDS; SCREENING AND LANDSCAPING.**

(A) No use shall create any structure or use that has a strong negative visual impact or violates the standards of this chapter.

(B) Where any business or industry is adjacent to property that is zoned residential, or any use cannot meet the visual standards of the city, screening shall be provided by the business or offending use.

(C) Screening required shall be in addition to normal landscaping and planting, and consist of a visual obstruction completely containing the activity from view.

(D) Screening may consist of dense vegetative plantings eight feet or more in height, wood walls with 100% obstruction, a building wall consisting of aesthetically pleasing materials or other similar structure. All structural elements shall meet required setbacks.

(E) All commercial buildings shall be landscaped with a plan approved by the City Council.

(Ord. passed - -2007)

**§ 150.065 TRASH HANDLING EQUIPMENT.**

All waste materials, debris, refuse or garbage shall be kept in an enclosed building or enclosed within a container. Said container shall be completely screened by a wall or equivalent visual screen. Said screen or enclosed building shall be architecturally compatible with the principal building which it serves.

(Ord. passed - -2007)

**§ 150.066 EXTERIOR LIGHTING.**

(A) Lighting fixtures shall be of a downcast, cut-off type, concealing the light source from view and preventing glare and spilling into residential areas. Lighting levels at contiguous residential property lines shall not exceed one-half footcandle.

(B) All parking lot and security lighting shall be directed away from adjoining residential uses.  
(Ord. passed - -2007)

**§ 150.067 INDUSTRIAL EMISSION DISCLOSURE.**

All proposed industrial uses shall be required to disclose any environmentally sensitive emissions, discharges or waste products at the time of the public hearing and review. The allowable level of these materials shall be established in the conditional use permit and be at least as restrictive as the applicable state or federal standards, and a testing program shall be established to monitor the facility. Exceeding the allowable level of any parameter shall constitute a failure to perform a condition of a conditional use permit.

(Ord. passed - -2007)

***PERFORMANCE STANDARDS*****§ 150.080 MANUFACTURED HOME PARKS.**

Manufactured home parks shall be licensed by the state and approved by the City Council.

(A) The property owner shall submit to the city's Clerk/Treasurer a development plan and a plot plan showing the following:

- (1) Location and legal description of the site;
- (2) All streets, lights, driveways, parking areas and sidewalks;

(3) A drawing of the proposed foundations, support systems and tie downs for individual manufactured homes;

(4) The size and arrangements of lots and the location of all accessory buildings;

(5) The topography by two-foot contour intervals and a grading plan;

(6) Open space areas;

(7) All gas, sewer, water, telephone and electric lines; and

(8) A typical lot plan.

(B) The Clerk/Treasurer shall forward the plans to the City Council for review and final approval. (Ord. passed - -2007)

**§ 150.081 SIGNS.**

(A) *Purpose.* The purpose of these standards is to protect the general welfare and safety of the city by providing a policy of aesthetic development to prevent signs from intruding on the rural and residential character of the city; to provide adequate signs for direction and property identification purposes; and to provide adequate and effective signs for commercial use.

(B) *Required permits.* All signs are considered structures and require a building permit, except signs placed by the city, county or state to relate the laws or ordinances, which are exempt and any signs exempted under this chapter.

(C) *Exempt signs.* The following signs can be erected without a building permit:

(1) Temporary signs pertaining only to construction, sale or rental of the premises are allowable; provided that, they do not exceed nine square feet in any zone and are removed within 30 days of completion of construction, sale or rental;

(2) Temporary signs, including banners, streamers and portable signs, are allowed for special events such as grand openings and promotions; provided that, they are not in place longer than 14 days during any 90-day period;

(3) Street identification signs, no hunting signs and no trespassing signs are allowed without a permit;

(4) Temporary signs endorsing a political candidate, party, or issue during an election season are allowed without a permit. The sign must be removed within ten days after the election; and

(5) Any signs in the Residential District; provided that, it meets the following standards.

(a) Signs shall not be internally or externally lighted, but may be reflective.

(b) No sign shall be larger than three square feet in size, except for a permitted home occupation, where six square feet is allowed.

(c) Only one sign per parcel shall be allowed without a permit.

(D) *General sign provisions.*

(1) Non-maintained signs or signs for discontinued businesses shall be removed after notification by the Zoning Administrator or 30 days after the last day the discontinued business was open to the public.

(2) Placement of signs shall consider protecting sight distances at intersections, driveways and curves.

(3) Digital time and temperature signs that are part of an overall sign design are allowed in commercial areas.

(4) A non-conforming sign may be refaced, removed and replaced for maintenance purposes; however, it shall not be increased in size, the support system shall not be improved, and the sign shall be removed in its entirety upon the determination by the Zoning Administrator that the sign is in disrepair or that the support system is failing.

(5) Residential and commercial signs shall not contain elements commonly used by highway departments to alert, direct or caution traffic, such as, but not limited to, octagonal stop signs or speed limit signs.

(6) All signs must be professionally constructed.

(Ord. passed - -2007)

**§ 150.082 NUISANCES.**

(A) *Compliance required.* Every use permitted by this chapter shall be so established and maintained as to comply with the provisions of this section. The City Council may require the complaining party to provide such tests or investigations by an independent testing organization satisfactory to the City Council as are necessary to show non-compliance with these standards. The entire cost of such investigations and tests shall be paid for by the complaining party unless the results disclose non-compliance with these standards; in that event, the entire cost shall be borne by the owner or operator. This provision does not preclude the city from making any investigations and tests it finds appropriate to determine compliance with these standards.

(B) *Noise.*

(1) Noise shall be measured on any property line of the tract on which the source of the noise is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. At the property line of the tract on which the source of noise is located, the sound pressure level of noise radiated shall not exceed the following limits measured for 10% (L10) and 50% (L50) of a one-hour period, using a sound level meter having the characteristics as specified in standards endorsed by the American National Standards Institute, specification for sound level meters and using procedures approved by the state's Pollution Control Agency. Noises emanating from any use shall be in compliance with and regulated by the state's Pollution Control Standards, Minn. Rules Ch. 7030.

(2) In addition, no persons shall make or cause to be made, any impulsive and loudly audible noise that injures or endangers comfort, repose, health, peace, safety or welfare of any persons or precludes their enjoyment of property or affects their property value.

(C) *Odor.* No use shall cause the discharge of toxic, noxious or odorous matter beyond the limits of the site where it is located in such concentrations as to be obnoxious or otherwise detrimental to the public health, safety, comfort or welfare or cause injury to property or business.

(D) *Glare.* Direct or reflected glare, such as from floodlights, spotlights or high temperature process, and as differentiated from general illumination, shall not be visible beyond the sight of origin at any property line. Any lights used for exterior illumination shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted where in view of adjacent property or public right-of-way. Except for public street lights, any light or combination of lights which cast light on a public street shall not exceed one footcandle as measured from the property line of said street. Any light or combination of lights which cast light on residential property shall not exceed one footcandle as measured from the property line of said property.

(E) *Vibration.* Vibration at any property line shall not be discernible to the human sense of feeling for three minutes or more duration in any one-hour period. Vibration of any kind shall not produce at any time an acceleration of more than one-tenth gravities or result in any combination of amplitudes and frequencies beyond the "safe" range of Table VII United States Bureau of Mines Bulletin No. 442, *Seismic Effects of Quarry Blasting* on any structure. The methods and equations of that bulletin shall be used to compute all values for the enforcement of this provision.

(F) *Smoke.* The emission of smoke by any use shall be in compliance with and regulated by the state's Pollution Control Standards, Minn. Rules Ch. 7017. Open burning shall require a DNR burning permit.

(G) *Dust and other particulate matter.* The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the state's Pollution Control Standards, Minn. Rules Ch. 7011.

(H) *Fumes or gases.* Fumes or gases shall not be emitted at any point in concentrations that are noxious, toxic or corrosive. The values given in Table I (Industrial Hygiene Standards - Maximum Allowable Concentration for eight hour day, five days per week), Table III (Odor Thresholds), Table IV (Concentrations of Substances Causing Pain in the Eyes), and Table V (Exposure to Substances Causing Damage to Vegetation) in the latest revision of Chapter 5, "Physiological Effects" that contains such tables, in the "Air Pollution Abatement Manual" published by the Manufacturing Chemists' Association, Inc., Washington D.C., are hereby established as guides for the determination of permissible concentration and amounts. The city may require detailed plans for the elimination of fumes or gases before the issuance of a zoning permit.

(I) *Fire hazards.* Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire prevention equipment and by such safety devices as are normally used in the handling of such materials. Such hazards shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.

(J) *Wastes.*

(1) All waste generated shall be disposed of in a manner consistent with all State Pollution Control Agency rules.

(2) Any accumulation of waste generated on any premises not stored in containers which comply with State Pollution Control Agency rules, or any accumulation of mixed solid waste generated on any premises which has remained thereon for more than one week, or any accumulation of infectious, nuclear, pathological or hazardous waste which is not stored or disposed in a manner consistent with State Pollution Control Agency rules, is a nuisance and may be abated and the cost of abatement may be assessed against the property where the nuisance is found.

(3) The accumulation, storage, processing and disposal of waste on any premises, which is not generated on that premises, is prohibited, except as specifically provided in this chapter.

(K) *Air pollution.* Every activity shall conform to state regulations relating to air quality standards and air pollution control.

(L) *Erosion and drainage.*

(1) No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion or deposit of sediment on adjacent properties.

(2) All storm sewer inlets and drainage ways that are functioning during construction shall be protected so that sediment laden water does not enter the conveyance system without first being filtered or otherwise treated to remove sediment.



(3) All on-site storm water conveyance systems must be designed and constructed to withstand the designed volume of storm water with appropriate stabilization to prevent scour and erosion. Erosion controls must be provided at the outlets of all storm sewer pipes or drainage ways.

(4) All temporary and permanent erosion and sediment control practices shall be maintained and repaired to assure the continued performance of their intended function.

(5) All disturbed ground left inactive for seven or more days shall be stabilized by seeding or sodding or by mulching or covering or other equivalent control measure.

(6) All temporary erosion control devices, including silt fence, gravel, hay bales or other measures shall be removed from the construction site and properly disposed of or recycled. This removal and disposal must occur within 60 days of the establishment of permanent vegetative cover on the disturbed area.

(M) *Radioactivity or electrical disturbance.* No activity shall emit dangerous radioactivity at any point or any electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance. Adverse effects shall be measured by Federal Communications Commission (FCC) standards.

(N) *Fertilizers, herbicides and pesticides.* No person shall place, spread or store fertilizers, herbicides and/or pesticides in any manner other than that recommended by the manufacturer or in any manner which allows any escape of nutrients or toxins into the air, ground water or surface water of the city.

(O) *Abandoned buildings.* No person shall allow a building, mobile home/manufactured house or other structure to be abandoned, deteriorated or a safety hazard. All abandoned, deteriorated or unsafe structures shall be removed. If the owner fails to remove the structure, the city may do so and assess the cost against the property through the county taxation method.

(Ord. passed - -2007) Penalty, see § 150.999

**§ 150.083 HANGING OBJECTS.**

Any object protruding from a business (such as, signs, awning and the like) must be no less than seven feet from the surface of the ground.

(Ord. passed - -2007) Penalty, see § 150.999

**§ 150.084 MAINTENANCE.**

All structures shall be properly maintained in a clean and acceptable manner so as not to constitute a menace to the public health, safety, convenience, general welfare, property values and aesthetics. All landscaping shall be properly maintained so as to preserve planting in a live state and free of noxious weeds.

(Ord. passed - -2007) Penalty, see § 150.999

**§ 150.085 STORAGE.***(A) Exterior storage.*

(1) There shall be no exterior storage allowed on lots that do not contain a principal or accessory structure.

(2) Where there is a principal or accessory structure, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying; licensed recreational equipment; construction landscaping materials and equipment currently being used for construction of the premises; woodpiles less than five cords; agricultural equipment and materials, if these are used or intended for use on the premises; off-street parking, except as otherwise regulated herein.

(3) Recreational vehicles are only permissible if they are currently licensed. Recreational vehicles must be stored at least ten feet distant from any property line and in the rear yard, pursuant to division (A)(2) above.

(4) Abandoned motor vehicles shall be stored within a structure or completely screened from view from adjacent properties and right-of-way.

*(B) Bulk storage.* All uses associated with the bulk storage of oil, gasoline, liquid propane, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the state's Fire Marshal, the state's Pollution Control Agency and the state's Department of Agriculture. When in excess of normal domestic allowances, the property owner shall have documents from those offices stating that the use is in compliance. No storage facility shall be constructed or placed where spillage from the facility would drain to a drainageway or public waters without providing complete containment.

(Ord. passed - -2007) Penalty, see § 150.999

**§ 150.086 SANITATION STANDARDS.**

*(A) Solid waste.* All solid waste shall be disposed of in accordance with the standards of the county.

(B) *Domestic sewage.*

(1) All plumbing shall discharge into a municipal sanitary system if available.

(2) If municipal services are not available, all dwellings or structures with plumbing shall be served by an individual or common sewage disposal system meeting the requirements of the State Pollution Control Agency, Minn. Rules, Ch. 7080.

(3) All non-conforming on-site septic systems shall be brought into conformance.

(4) Sewage tanks being abandoned shall be thoroughly pumped and filled with soil.

(5) All owners of individual sewage treatment systems shall have the system inspected once each five years by a certified sewage system inspector.

(a) The person inspecting the system shall examine the septic tank and determine the need for pumping in accordance with State Pollution Control Agency, Minn. Rules, Ch. 7080.

(b) The person inspecting the system shall provide to the city a statement that the system appears to be in good working order, or specifying any defects discovered and the date such defects were/will be corrected. The form shall also indicate if the septic tank was pumped.

(c) The Zoning Administrator shall maintain a file by legal description and shall notify any delinquent property owner when six months have elapsed beyond the required five-year period.

(d) The Zoning Administrator, or assistant, shall have the authority to verify the inspections and/or conduct inspections on behalf of the city.

(C) *Water supply.*

(1) All potable water systems shall be connected to a municipal water supply, if available. A municipal water supply is considered available, if the connection to the municipal system lies adjacent to the property line of any property.

(2) All private water supply wells will be sampled and tested on an annual basis for nitrates by qualified laboratories. Tests for other contaminants listed in the National Drinking Water Primary Regulations may be required by the city, if deemed necessary. All testing shall be at the expense of the well owner, and it shall be the responsibility of the well owner to forward an annual sample and certified test results to the city by January 1 of each year.

(3) If a private water supply test has nitrate levels less than ten ppm, the property owner may submit to the city the required certified testing of all private water supplies used for potable water purposes for the presence of nitrates in the private water supply every two years instead of annually.

(4) (a) If a private water supply tests less than ten parts of nitrate per million, the private water supply system may continue to be used until one of the following occurs:

1. The real property is title transferred; and
2. Any improvements, modifications or changes are made to the dwelling which require a building permit.

(b) When either of the events described in divisions (C)(4)(a)1. and (C)(4)(a)2. above occur, the private water system will be required to be connected to the municipal water supply within 30 days. No permit will be issued for any property improvements, alteration or changes sought to be made, until the proper connection to the municipal water supply has been made and reported to the city.

(c) In the event that a property with a private water system is for sale, the seller must notify the purchaser of the hook-up requirements of this chapter.

(5) A private water supply that tests with a nitrate level of ten ppm or higher will be required to connect to the municipal water supply by January 1 of the following year.

(6) Private water wells which are continued or maintained after any structure is connected to the municipal water supply shall have no means of cross-connection between the private well and the municipal system at any time. Hose bibs that will enable cross-connections of the two systems are prohibited.

(7) All domestic and agricultural wells shall conform to the state's Department of Health Standards for wells.

(8) All water systems shall meet the requirements of the state's Department of Health Standards for water systems.

(9) (a) In the event that any private water supply is voluntarily discontinued or is discontinued in conjunction with or pursuant to the city's Water Supply Ordinance, said private water supply, including any private water wells, shall be abandoned and shall be sealed in accordance to state's Department of Health Standards and report such to the state's Department of Health and to the city.

(b) All connections to the municipal water system shall be completed by a licensed plumber.

(Ord. passed - -2007; Ord. passed 9-4-2007) Penalty, see § 150.999

#### **§ 150.087 PETS AND LIVESTOCK.**

(A) *Pets.* Pets shall be properly cared for, shall not be allowed to create problems for neighbors or for the city, or become a nuisance, and shall have sanitary standards maintained that are consistent with the provisions of this chapter.

(B) *Livestock*. Keeping of livestock shall only be permitted as a conditional use where the keeping of such animals will not have a negative impact on the public health, safety and welfare. Livestock shall be properly cared for, shall not create problems for neighbors and shall have sanitary standards maintained consistent with this chapter.

(Ord. passed - -2007) Penalty, see § 150.999

**§ 150.088 TREE REMOVAL; SOIL EROSION PREVENTION.**

(A) Dead, damaged and diseased trees shall be removed immediately and disposed of as firewood or by other means.

(B) Vegetation removal, clear-cutting, if allowed, must be completed including removal of all debris. Soil erosion must be prevented and replanting of native species is encouraged.

(C) Natural areas designated by conditions on conditional use permits for screening or open space preservation purposes shall be left natural, except for the removal of diseased trees. Replanting or thickening with native species is encouraged.

(D) Any area disturbed during grading and filling operations shall have the native topsoil replaced and be seeded with perennial grasses.

(E) Vegetation alterations necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from the above standards, except division (D) above. All remaining debris shall be removed.

(Ord. passed - -2007) Penalty, see § 150.999

**§ 150.089 PARKING AND LOADING.**

On-site parking or garage space shall be provided in all zoning districts, except as waived by the City Council, with adequate drive access to eliminate the need to back onto collector or arterial streets or highways. On-site parking spaces shall not be used for storage.

(A) *Location/design of parking facilities.*

(1) Commercial on-site parking shall not be closer than five feet from a lot line.

(2) All parking shall be paved or provided with all-weather surfacing and be adequately drained to a pervious area designed to allow the entrapment of silts and nutrients and prevent pooling of water in parking areas.

(3) More than five parking stalls contiguously located and any commercial parking adjacent to a residential property shall be landscaped according to a plan approved by the City Council.

(B) *Loading, general.*

(1) All required loading berths shall be off-street and shall be located on the same lot or on and adjoining lot to the principal use being served. Loading shall not occupy front yard space. Berths shall not be used for storage in excess of eight hours.

(2) Loading berths shall be no less than 15 feet in width and 50 feet long with 14 feet of vertical clearance. Berths shall have all-weather surfaces and be well-drained.  
(Ord. passed - -2007) Penalty, see § 150.999

**§ 150.090 FENCING.**

(A) *Definition.* A **FENCE** is any lineal structure, including walls, hedges or similar barriers, used to prevent access by persons or animals or prevent visual or sound transference.

(B) *Material.* Acceptable fencing materials shall consist of treated wood, ornamental iron, chain line, vinyl or brick.

(1) *Residential district.* No barbed wire shall be allowed in a residential district, except barbed wire fences presently used in farming operations.

(2) *Commercial district.* No barbed wire shall be used for fencing; except that, it may be used on security fences which are at least six feet high exclusive of the barbed wire.

(C) *Building permit required.*

(1) No fence, except temporary fencing, shall be constructed without a building permit, the application shall be accompanied by a plot plan clearly describing the type, location and method of anchoring the fence.

(2) Boundary line fences shall be located entirely upon the private property of the party constructing the fence unless the owner of the property of the adjoining property agrees, in writing, that such fence may be erected on the division line of the respective properties. The persons, firms or corporations constructing or causing the construction of such fence shall be responsible for maintaining that part of their property between fence and property line. City Council requires any applicant for a fence permit to establish the boundary lines of his or her property by a survey thereof to be made by a registered land surveyor. That survey shall accompany the building permit application.

(D) *Conformance.* Fencing in all districts shall conform to the following.

(1) Fences may not be built any closer than 24 inches from the property line, to provide room for maintenance of the fence. Exception: if the adjoining property owners give written approval for the fence to be placed on the property line, then the fence may be placed on the property line.

(2) Fences in all districts shall be maintained so that the exposed outer surface shall be uniformly painted or stained in a neat and aesthetically pleasing condition.

(3) No fence shall be permitted on a public right-of-way or boulevard area without special permission from the City Council.

(4) No fence shall be erected on a corner lot that will obstruct or impede the clear view of an intersection by approaching traffic.

(5) All snow-stop fencing may be used from November 1 to April 1. No permit shall be required for temporary fencing.

(6) Any fence which is dangerous to the public safety or general welfare and health is a public nuisance and the city may commence proceedings for the abatement thereof. Electric fences may not be used as boundary fences and such material as hog wire fencing, barbed wire fencing or snow fencing will not be allowed as permanent fencing.

(7) The side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.

(8) Both sides of fences shall be maintained in good condition both in appearance and in structure. Wood material, other than decay resistance varieties, shall be protected against decay by use of paint or other preservative. If 25% or more of the painted surface of a fence is determined by the enforcement officer to be paint blistered, the surface shall be properly scraped and repainted. Maintenance is a responsibility of owner.

(E) *Fencing in residential district.*

(1) A fence may be located along the rear lot line to a maximum height of six feet and to a maximum height of six feet along the side lot lines up to the point where it is parallel with the front edge of the house. From this point forward to the right-of-way the height of the fence shall not exceed three feet. Any fence that crosses the width of the front yard shall not exceed three feet in height. A variance is needed for fences exceeding the above mentioned heights.

(2) In any residence zone or any corner lot, no fence or accessory structure or planting shall rise over two and one-half feet in height above the level of the public sidewalk within 20 feet of any corner, so as to interfere with traffic visibility across the corner. No fence or wall or shrub planting of more than two and one-half feet in height above the level of the public sidewalk shall be erected on any interior lot within ten feet of the front property line where it will interfere with traffic visibility from a driveway.

(3) Fences around dog kennels not exceeding 50 square feet in size, fences around garbage cans and garden fences will not require fence permits, but shall adhere to the other regulations of this subdivision.

(F) *Fencing in commercial district.* Fences may be located along a lot line to a height of eight feet. Fences over eight feet in height shall require a variance.

(G) *Required fences, swimming pools.*

(1) Outdoor swimming pools shall be adequately fenced to prevent uncontrolled access from the street or adjacent property.

(2) Outdoor swimming pools with a capacity of 1,500 gallons or more, or with a depth of three feet or more of water shall be fenced in compliance with division (G)(3) below.

(3) A fence at least four feet in height measured from ground level shall completely enclose any permanent, outdoor swimming pool, whether it is an above ground, or below ground pool, that equals or exceeds the conditions set forth in division (G)(2) above. Any fence over six feet in height measured from ground level shall require a variance.

(H) *Existing fences.* No existing fences in violation of this section will be allowed to be replaced or rebuilt. Should an existing fence be replaced or rebuilt, it must come under the regulations of this section.

(Ord. passed - -2007; Ord. passed 9-4-2007) Penalty, see § 150.999

### ***SPECIAL CONDITIONS AND PROVISIONS***

#### **§ 150.105 HOME OCCUPATIONS.**

(A) Each home occupation established or substantially changed after the effective date of this chapter shall be considered a conditional use.

(B) Each home occupation shall be subject to at least the following minimum conditions, in addition to those applicable to general conditional uses.

(1) All business activities shall be clearly incidental and subordinate to the use of the property for residential purposes.

(2) The business owner must be a resident of the dwelling contained on that property. Additional family member employees are allowed. Up to one non-family member employee is allowed on the premises.

(3) Hours of operation shall be limited by conditional use permit to be compatible with the surrounding neighborhood and residential uses.



(4) Through the conditional use permit, the number of employees related to the business shall be defined and limited.

(5) On premises, retail sales will be allowed only of products manufactured on those premises unless specifically authorized by conditional use permit.

(6) All activities shall be controlled to prevent nuisance problems of noise, vibration, smoke, dust, fumes and litter.

(7) Parking adequate for all activities related to the home occupation shall be provided on-site, including parking for one non-family member employee.  
(Ord. passed - -2007)

**§ 150.106 ADULT USES.**

*(A) Purpose and intent.*

(1) It is the purpose of this chapter to regulate adult-oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city and to establish reasonable and uniform regulations to:

(a) Prevent additional criminal activity within the city;

(b) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;

(c) To locate adult-oriented businesses away from residential areas, schools, churches, parks and playgrounds; and

(d) Prevent concentration of adult-oriented businesses within certain areas of the city.

(2) The provisions of this chapter have neither the purpose, nor the effect, of imposing a limitation or restriction on the content of any communicative material, including adult-oriented materials. Similarly, it is not the intent, nor the effect, of this chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of adult-oriented material and entertainment to their intended market.

*(B) Application.*

(1) Except as specifically provided for in this chapter, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose, nor in any manner that is not in conformity with this chapter.

(2) No adult-oriented business shall engage in any activity or conduct, or permit any other person to engage in or to conduct any activity in or about the establishment which is prohibited by this chapter, the laws of the state or the United States of America. Nothing in this chapter shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including, but not limited to, statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

(C) *Location.* During the term of this chapter, no adult-oriented business shall be located less than 1,250 feet from any residential zoning district boundary or site used for residential purposes, nor less than 1,250 feet from any church site, school site, day care facility or park which is adjacent to residentially-zoned property. In addition, no adult-oriented business may be located within 300 feet of another adult-oriented business. For purposes of this chapter, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, day care site, park site or another adult-oriented business site to the nearest boundary of the proposed adult-oriented business site.

(D) *Hours of operation.* No adult-oriented business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.

(E) *Operation.*

(1) *Off-site viewing.* An establishment operating as an adult-oriented business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of M.S. §§ 617.23 through 617.75, as they may be amended from time to time, or other applicable federal or state statutes or local ordinances.

(2) *Entrances.* All entrances to the business, with the exception of emergency fire exits which shall not be usable by patrons to enter the business, shall be visible from a public right-of-way.

(3) *Layout.* The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the business can observe all patrons while they have access to any merchandise offered for sale or viewing including, but not limited to, books, magazines, photographs, video tapes or any other material.

(4) *Illumination.* Illumination of the premises' exterior shall be adequate to observe the location and activities of all persons on the premises' exterior.

(E) *Signs.* Signs for adult-oriented businesses shall comply with the sign restrictions addressed in this chapter in division (D)(2) above and, in addition, signs for adult-oriented businesses shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.

(F) *Consumption or sale of alcoholic beverages.* Adult-oriented businesses shall not be located on the same parcel as or on a parcel adjacent to or within 500 feet of an establishment that serves alcoholic beverages. Sale and consumption of alcoholic beverages on a parcel containing an adult use is prohibited.

(G) *Licenses.*

(1) *Licenses required.* All establishments, including any business operating at the time this chapter becomes effective, operating or intending to operate an adult-oriented business, shall apply for and obtain a license from the city. A person is in violation of the city code if he or she operates an adult-oriented business without a valid license issued by the city.

(2) *Applications.* An application for a license must be made on a form provided by the city.

(a) The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of the total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(b) The applicant must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with the appropriate state, county and local law and codes by the Health Official, Fire Marshal and Building Official.

(c) Application for license shall contain the following:

1. Address and legal description of the property to be used;
2. The names, address, phone numbers, birth dates of the owners, lessees (if any), the operator or manager and all employees;
3. The names, addresses, and phone numbers of two persons, who shall be residents of the state, and who may be called upon to attest to the applicant's, manager's or operator's character;
4. Whether the applicant, manager or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information detailing the disposition thereof; and
5. The names and addresses of all creditors of the applicant, owner, lessee or manager regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, furnishing or acquiring the premises, personal effects, equipment or anything incidental to the establishment, maintenance and operation of the business.

(d) If the application is made on behalf of the corporation, joint business venture, partnership or any legally constituted business association, it shall submit along with its application accurate and complete business records showing the names, address and birth dates of all individuals having an interest in the business, including partners, officers, owners and creditors furnishing credit for the establishment, acquisition, maintenance and furnishings of said business. In the case of a corporation, the names, addresses and birth dates of all officers, general managers, members of the

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board of directors, as well as any creditors who have extended credit for the acquisition, maintenance, operation or furnishing of the establishment, including the purchase or acquisition of any items of personal property for use in said operation.

(e) All applicants shall furnish to the city, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

(3) *Application; applicant disqualification.* Any one of the following items shall invalidate the application or disqualify the applicant from submitting an application:

(a) The license fee required by this chapter has not been paid; and/or

(b) An applicant has been convicted of a crime involving any one of the following offenses:

1. Any sex crimes, as defined by M.S. §§ 609.29 through 609.352 inclusive, as they may be amended from time to time, or as defined by any ordinance or statute in conformity therewith;

2. Any obscenity crime, as defined by M.S. §§ 617.23 through 617.299 inclusive, as they may be amended from time to time, or as defined by any ordinance or statute in conformity therewith, for which:

a. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

b. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

c. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is two or more misdemeanor offenses or a combination of misdemeanor offenses occurring within any 24-hour period.

3. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant or the applicant's spouse.

(4) *Requalification.* An applicant who has been convicted of an offense listed in division (G)(3) above may qualify for an adult-oriented license only when the time period required by this chapter has elapsed.

(5) *Posting.* The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult-oriented business. The license shall be posted in a conspicuous location near the entrance to the adult-oriented business so that it may be easily read at any time.

(6) *Council action.* The City Council shall act to approve or disapprove the license application within 120 days from the date the application was submitted; provided that, the application contains all of the information required by this chapter. If the application is deficient, the Council shall act on the application within 120 days from the date that the deficiency has been corrected. The city's Clerk/Treasurer shall notify the applicant of the deficiencies in the application.

(7) *Appeals.* Within 90 days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or City Clerk/Treasurer of the municipality.

(8) *Investigation and issuance.* The City Council shall direct the Police Department or County Sheriff to investigate all facts set forth in the application. An advance fee of \$500, or the costs of performing said check as determined by the Police Department, shall be submitted with the application to defray the city's costs and expenses associated with the background investigation. After the background investigation has been completed and all information required by the application has been submitted to the city, the City Council shall determine whether to grant or to deny the license application.

(9) *License fees.* Fees shall be established by City Council resolution on the fee structure.

(10) *Inspection.*

(a) *Access.* An applicant or licensee shall permit health officials, representatives of the Police Department, Zoning Administrator and Building Inspection Division, County Sheriff's office and Fire Department to inspect the premises of an adult-oriented business for the purpose of ensuring compliance with the law and city code at any time it is occupied or open for business.

(b) *Refusal to permit inspections.* A person who operates an adult-oriented business or his or her agent or employee commits an offense if he or she refuses to permit a lawful inspection of the premises by health officials, representatives of the Police Department, County Sheriff's Department, Fire Department, Zoning Administrator or Building Inspection Division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided for in division (G)(12) below.

(c) *Exceptions.* The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for uses as a permanent or temporary habitation.

(11) *Expiration and renewal.*

(a) *Expiration.* Each license shall expire at the end of the calendar year and may be renewed only by making application as provided for in division (B) above. Application for renewal must be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will be unaffected.

(b) *Denial of renewal.* When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the denial date became final.

(12) *Suspension.*

(a) *Causes of suspension.* The city may suspend a license for a period not to exceed 30 days if it determines that a license or an employee of a license has:

1. Violated or is not in compliance with any provision of this chapter;
2. Engaged in the use of alcoholic beverages while on the adult-oriented business premises;
3. Refused to allow an inspection of the adult-oriented business premises authorized by this chapter;
4. Knowingly permitted gambling by any person on the adult-oriented business premises; and
5. Demonstrated the inability to operate or manage an adult-oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(b) *Notice.* A suspension by the city shall be preceded by written notice to the licensee and before a hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensee's business premises with the person in charge thereof.

(13) *Revocation.*

(a) *Suspended licenses.* The city may revoke a license if a cause of suspension in division (G)(12) above occurs and the license has been suspended within the preceding 12 months.

(b) *Causes of revocation.* The city shall revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted to the city during the application process;

2. A licensee or an employee knowingly allowed possession, use, or sale of controlled substances on the premises;
3. A licensee or an employee has knowingly allowed prostitution on the premises;
4. A licensee or an employee knowingly operated the adult-oriented business during a period of time when the licensee's license was suspended;
5. A licensee has been convicted of an offense listed in division (G)(3) above, for which the time period required in division (G)(3)(b)2. above, has not elapsed;
6. On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in division (G)(3) above for which a conviction has been obtained, and the person or persons were employees of the adult-oriented business at the time the offenses were committed;
7. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises; and
8. A licensee has allowed the sale and/or consumption of alcoholic beverages at the adult-oriented business for which a license has been issued herein.

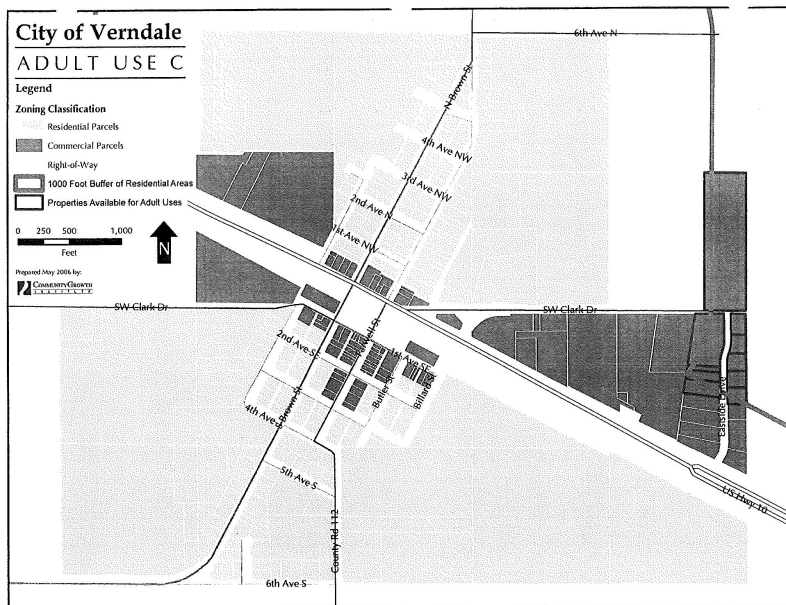
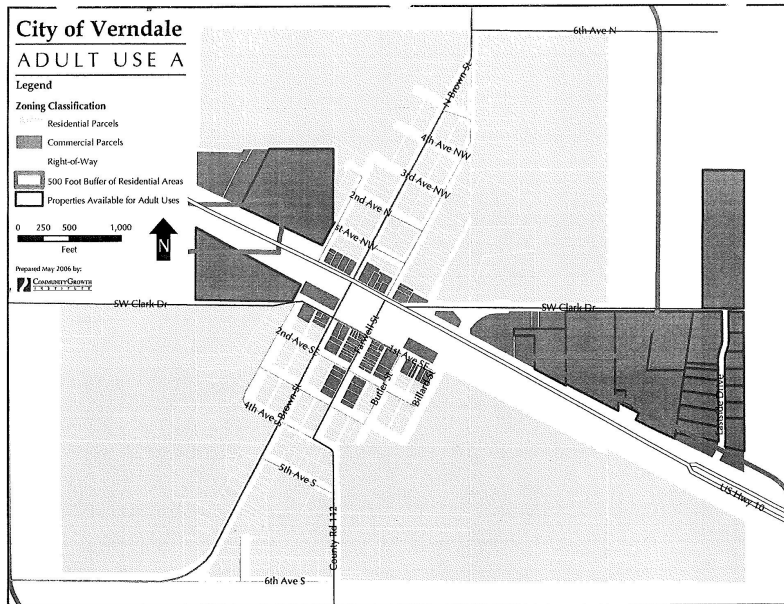
(c) *Appeals.* The fact that conviction is being appealed shall have no effect on the revocation of the license.

(d) *Granting a license after revocation.* When the city revokes a license, the revocation shall continue for one year, and the licensee shall not be issued an adult-oriented business license for one year from the date that the revocation became effective. If, subsequent to revocation, the city finds that the basis for revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under division (G)(13)(b)5. above, an applicant may not be granted another license until the appropriate number of years required under division (G)(3) above have elapsed.

(e) *Notice.* A revocation by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

(14) *Transfer of license.* A licensee shall not transfer this license to another, nor shall a licensee operate an adult-oriented business under the authority of a license at any place other than the address designated in the application.

## Verndale - Land Usage



(Ord. passed - -2007)

### § 150.107 LANDFILLS; SOLID WASTE.

No landfills are allowed in the city. The county has the responsibility for solid waste disposal. Disposal of trees, stumps, rock, brush and other natural products by burning and/or burying is allowed on construction sites as determined by the building permit and a DNR burning permit, if applicable.

(Ord. passed - -2007)



**§ 150.108 TEMPORARY FAMILY HEALTH CARE DWELLINGS.**

The city opts out of the requirements of M.S. § 462.3593, as it may be amended from time to time, which defines and regulates temporary family health care dwellings.  
(Ord. 81, passed 8-1-2016)

***SUBDIVISIONS***

**§ 150.120 SKETCH PLAN.**

A sketch plan shall contain the following data:

*(A) Existing conditions.*

- (1) Approximate exterior boundary drawn to a scale of not less than one inch equals 100 feet with the scale and northerly direction shown thereon;
- (2) Indication of floodplains, wetlands, slopes over 12%, bluffs, tree cover and ordinary high water mark;
- (3) Use of adjoining properties including street locations, structure locations and property lines;
- (4) Significant historical sites;
- (5) Approximate locations of existing structures;
- (6) Approximate locations of existing wells and sewage treatment systems;
- (7) Location by section, town and range with small scale sketch showing location within the city; and
- (8) The existing zoning classification and the zoning classification of adjacent parcels.

*(B) Proposed design.*

- (1) Proposed roads and walkways;
- (2) Proposed lots with building setbacks and bluff impact zones;
- (3) Proposed green space; and

(4) Proposed city sewer and water system connections or sewage treatment systems and well locations.

(Ord. passed - -2007)

**§ 150.121 PRELIMINARY PLATS, PRELIMINARY CONDOMINIUM PLATS OR METES AND BOUNDS SUBDIVISIONS RESULTING IN AT LEAST ONE PARCEL LESS THAN TEN ACRES.**

A preliminary plat, preliminary condominium plat or metes and bounds subdivision resulting in at least one parcel less than ten acres shall contain the following data (except as waived by the City Council), along with other reasonable information required by the Council needed to make a proper evaluation of the proposal.

(A) *Existing conditions.*

(1) Boundary lines with lengths and bearings drawn to exact scale of no less than one inch equals 100 feet taken from a boundary survey by a registered land surveyor with the legal description of the property, total acreage, name of the fee owner, developer and surveyor. North arrow and scale;

(2) Topography consisting of two-foot contour intervals or, at the discretion of the City Council during the sketch plan review, ten-foot contour intervals taken from USGS mapping with additional field determined spot elevations added to define drainageways, 100-year floodplains, wetlands, slopes and the ordinary high water mark. Near shore aquatic conditions, including depths, types of bottom, sediments and aquatic vegetation;

(3) Tree cover limits, specimen tree locations;

(4) Soils as determined by hand borings on a random basis, to determine depth to ground water at lower elevations and suitability for sewage treatment systems. At least one boring for each unit unless waived by the City Council;

(5) Location of adjoining streets, wetlands, structures and property lines within 200 feet of subject parcel, including acreage of any property owned by the developer not included in the preliminary plat;

(6) Significant historical sites;

(7) Significant wildlife habitat areas;

(8) Endangered, threatened, rare or critical species, both flora and fauna;

(9) Date of boundary survey, topography and proposed plat;

- (10) Layout of existing streets, walkways, driveways, blocks, lots and structures drawn to the same scale;
- (11) Locations of existing wells and sewage treatment systems;
- (12) Location by section, town and range with small scale sketch showing location within the city; and
- (13) The existing zoning classification and the zoning classification of adjacent parcels.

(B) *Proposed design.*

- (1) Layout of proposed streets, walkways, driveways, blocks, lots, buildings if known, drawn to same scale as existing data;
- (2) Dimensions scaled to nearest one foot of all lot lines, street widths, easement widths and lakeshore lengths;
- (3) Buildable areas of proposed lots;
- (4) Structure setback lines from streets, lot lines and ordinary high water mark and a designation of the buildable area on the parcel;
- (5) Proposed green space with area shown;
- (6) Proposed public dedication areas other than streets or walkways with the area shown;
- (7) Proposed city sewer or water system connections and extensions existing and proposed with grades shown;
- (8) Potential locations and estimated depth to water table for all proposed onsite sewage disposal systems, two per lot;
- (9) Information regarding adequacy of domestic water supply;
- (10) Proposed storm drainage system and erosion control, both during and after construction activities;
- (11) Proposed street standards and profiles;
- (12) Potential principal structure and accessory structure locations and elevations;
- (13) Extent of anticipated vegetation and topographic alterations;

(14) Proposed covenants;

(15) Name of subdivision and proposed street names, which shall not duplicate or be alike another plat previously recorded; and

(16) Stages of development proposed.

(C) *Evidence*. Evidence of authority to subdivide the parcel consisting of fee ownership or written concurrence of fee owners.

(Ord. passed - -2007)

### § 150.122 FINAL PLATS OR FINAL CONDOMINIUM PLATS.

A final plat or final condominium plat shall contain all elements required by this subchapter and M.S. Ch. 505, 515A or 515B respectively, as they may be amended from time to time, and the State Plat Manual, including, but not limited to, the following:

(A) Conformance with approved preliminary plat or agreed upon portion thereof;

(B) Design standards in conformance with this chapter;

(C) Preparation by a registered land surveyor. Signatures of Mayor, Clerk/Treasurer, County Auditor, County Treasurer and all parties with legal interest in the fee ownership of the land;

(D) Dedication to the public of easements, rights-of-way, walkways and land to become public;

(E) Drainage and utility easements over natural drainageways and significant wetlands;

(F) Reservation of private streets in outlots;

(G) Covenants shall be filed concurrently with the plat and shall be required to create an association of homeowners if a privately maintained cluster sewer or water system is proposed for subdivision.

(1) The association shall consist of all benefitted lot owners.

(2) The association shall be responsible for all costs of maintenance and replacement.

(3) The costs shall be uniformly divided by lots served.

(4) The costs shall be lienable against the lots by the association if payment is not forthcoming.

(5) The status of the facility shall be clearly stated as subject to perpetual private maintenance.

(6) Provisions shall be made for emergency access or emergency maintenance by the city with subsequent reimbursement by the association.

(H) Concurrent documents:

(1) Title opinion, less than 60 days old, acceptable to the City Attorney and showing conformance with those parties represented by signature on the plat as holding interest in the property being divided; and

(2) Financial security acceptable to the City Attorney in the amount of 125% of the cost estimated by the City Engineer for the uncompleted required improvements.

(I) Development contract acceptable to the City Attorney, if required.  
(Ord. passed - -2007)

**§ 150.123 DESIGN LAYOUT STANDARDS; MINIMUM.**

The following design standards shall be considered minimum acceptable requirements in the review of the proposed subdivision by the Zoning Administrator, City Attorney, City Engineer and City Council, except as waived by variance approved by the City Council.

(A) The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration required. Land subject to flooding, land below the ordinary high water mark, wetlands, areas with high water table, bluffs, lands with slopes exceeding 12% or land containing other significant constraint(s) upon future intended usage, shall not be considered in the minimum size of a lot. The suitability analysis for each lot shall also consider soil and rock formations with severe limitations for development, severe erosion potential, 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 sights 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.

(B) All non-conforming structures and uses shall be brought into conformity during the subdivision process, except as specifically waived by motion of the City Council.

(C) Each lot shall be adjacent to public sewer or shall have a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment sewage systems.

(D) Provisions for water based recreation where near shore aquatic conditions are unsuitable for direct access.

(E) Lot areas and dimensions shall conform to the requirements of this chapter, without variance.

(F) Lot layouts shall be compatible with the existing layout of adjoining properties and/or shall not constrain the future development of adjacent properties if those properties were to be developed as per this chapter.

(G) (1) Side lot lines shall be substantially at right angles to straight road lines or radial to curved road lines, radial to lake or stream shores, and shall not contain bends or jogs unless topographic conditions necessitate a different arrangement.

(2) Existing structures shall not be construed to be a topographic condition.

(H) Each lot shall have a minimum of 33 feet of frontage on a designated right-of-way. Commonly owned property or green space used for access in a planned unit development shall have a minimum of 33 feet of frontage on a public right-of-way.

(I) Proposed streets shall conform to the adopted road plan of the city, county and state highway plans and existing boundary conditions.

(1) Streets shall be related to the topography so as to produce useable lots and reasonable gradients not in excess of 10% for collector roads and 12% for minor roads.

(2) Public access shall be given to adjacent properties unless the topography clearly indicated future connection is not feasible.

(3) When parcels abutting arterial or collector roads are subdivided, no new access points shall be created unless an equal number of access points are removed, unless access points are created not less than 500 feet apart; in which case, there shall be no limit on the number of accessed allowed.

(4) Half streets or connections of half streets to partial streets without providing for the full required right-of-way will not be permitted.

(5) Streets will be designed as collectors or local streets in accordance with any road plans that the city may adopt.

(6) The number of streets that terminate without a through connection shall be minimized and the street connected to a cul-de-sac (turnaround) shall not exceed 1,200 feet in length.

(7) Access shall be given to all adjacent properties when required by the City Council. All streets intended to be extended to adjoining property shall be provided with a temporary cul-de-sac with the sides on a temporary easement, which will revert to the adjoining lot owner when released by the city. Landlocked areas shall not be created.

(8) (a) Right-of-way shall be dedicated to the public:

Arterials	100 feet or as determined by the county
Collectors	66 feet
Cul-de-sac (turnaround)	68-foot radius
Local streets	66 feet

(b) Additional rights-of-way may be required to promote public safety and convenience if special conditions require such as intersections, sight lines on corners or excessive cut or fill sections.

(9) (a) Street centerlines shall intersect at not less than 75 degrees.

(b) Street jogs shall be no less than 200 feet from centerline to centerline.

(c) Gradients at intersections and for 50 feet approaching on each side of an intersection shall not exceed 2%. The approach shall contain no grades greater than 7% for 200 feet on each side of the intersection.

(10) Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones.

(11) Street names shall conform to the pattern of the city and continue an existing name on the same alignment, where determined applicable by the City Council. Street names shall be coordinated with the County Surveyor’s office.

(J) Easements shall be provided for public utilities or drainage where required by the City Council and shall be following widths, minimum:

Drainageway	10 feet
Electrical, telephone or cable television	10 feet
Sanitary sewer	40 feet
Storm sewer	20 feet
Water main	20 feet

(K) Lots requiring variances to allow their use for the intended purposes or requiring holding tanks for sewage shall not be allowed.

(Ord. passed - -2007)

**§ 150.124 SURVEY STANDARDS.**

Survey standards shall be those required by M.S. Ch. 505, as it may be amended from time to time, including the placement of all monuments including block corners, lot corners, curve points and lake survey line points on lot lines. All federal, state, county and other official benchmarks, monuments or triangulation points in or adjacent to the proposed subdivision shall be preserved in position unless relocation is approved by the controlling agency.

(Ord. passed - -2007)

**§ 150.125 STREET IMPROVEMENTS.**

All streets within the subdivision shall be constructed by the subdivider or otherwise provided for by agreement in a development contract between the subdivider and the City Council with all expenses borne by the subdivider. Local streets and collector streets shall be constructed according to the established minimum standards and shall be approved by the City Engineer.

(Ord. passed - -2007)

**§ 150.126 SANITARY PROVISIONS.**

No land shall be subdivided for building purposes unless two adequate sites are available on the newly created lot for a conforming onsite sewage treatment system, or the subdivider constructs a cluster system serving the lots to be owned and maintained by a property owner's association or the lot is provided with sanitary service by a municipal sewer system at the expense of the subdivider.

(A) A municipal sewer system shall be extended to the lot at the subdivider's expense by agreement in a development contract between the subdivider and the City Council if the existing system is adjacent to the parcel being subdivided or reasonably close in the opinion of the Engineer and City Council or if the density of the proposed development necessitates a municipal sewer connection. The sewer shall also be extended to the exterior boundary of the subdivision at locations designated by the Engineer.

(B) Onsite systems or cluster onsite systems shall conform to State Pollution Control Agency, Minn. Rules, Ch. 7080, and provide for two treatment sites for drainfields.

(C) Municipal sewage facilities shall be designed by a registered engineer, approved by the City Engineer, approved by the State Pollution Control Agency, and installed according to *Standard Utilities Specifications*, City Engineer's Association of Minnesota.

(Ord. passed - -2007)

**§ 150.127 WATER SUPPLY STANDARDS.**

The subdivider shall be responsible to provide the proposed subdivision with adequate spacing between building sites, on-site sewage disposal sites and potential well locations to allow the well



installations in conformance with this chapter requirements or the subdivider shall provide the lot with a cluster water supply system to be owned and operated by a property owner's association or the subdivider shall provide municipal water service to the lot.

(A) A municipal water system shall be extended to the lot at the expense of the subdivider by agreement in the development contract between the subdivider and the Council if the existing municipal system is adjacent to the parcel being subdivided or reasonably close in the opinion of the engineer and City Council or if the density of the proposed development necessitates a municipal water connection. The water main shall also be extended to the exterior boundary at locations designated by the Engineer.

(B) Onsite wells or cluster water systems shall conform to the state's Department of Health Rules and Regulations MHD 210-230 "Water Well Construction Code", and the cluster system shall receive the approval of the City Engineer.

(C) Municipal water facilities shall be designed by a registered engineer, approved by the City Engineer, approved by the state's Department of Health and installed according to "Standard Utilities Specifications" City Engineer's Association of Minnesota.  
(Ord. passed - -2007)

**§ 150.128 DRAINAGE/GRADING STANDARDS.**

The subdivider shall consider the retention of natural storm water/snowmelt drainage patterns in the design of his or her proposed subdivision. The subdivider shall be responsible to provide adequate drainage facilities for his or her development and upstream properties.

(A) All subdivisions shall demonstrate provisions for adequate surface or subsurface runoff of storm water and snow melt directed to natural drainageways.

(B) All natural drainageways draining properties upstream from the subject property shall be identified and preserved, and no structures shall be less than one foot above the water level in the drainageway created by a storm of a 100-year, 24-hour rain event. No filling of areas inundated by the 100-year, 24-hour rain event shall be allowed.

(C) Additional runoff for a 100-year, 24-hour rain event from all streets and building sites at build-out shall be accounted for and maintained within the development.

(D) Natural or manmade storage areas shall be utilized where needed and shall be designated by drainage and utility easement by the subdivider. All storage areas shall be vegetated and designed to lower naturally after a storm.

(E) All drainage structures or improvements provided shall be sufficient in size to pass a 100-year, 24-hour storm event through the natural drainageway.

(F) All areas disturbed by grading, street construction or structure installation shall be covered with a minimum of three-inch natural topsoil and seeded. Drainageways over 2% in gradient shall, at a minimum, be sodded.

(G) All parking areas, heavy use areas, storage areas and impervious area shall be diverted to a basin designed to allow entrapment of silts and nutrients prior to discharge to a natural drainageway.

(H) There shall be no discharge of untreated storm water to a waterbody.

(I) Erosion control measures shall be provided as needed to prevent and/or contain erosion.  
(Ord. passed - -2007)

### **§ 150.129 DEDICATION TO THE PUBLIC.**

(A) In accordance with the provisions of M.S. § 462.358, as it may be amended from time to time, the subdivider shall dedicate, to the public, lands for highway rights-of-way, street rights-of-way, utility easements, wetland easements and similar lands required for perpetual and public improvements.

(B) In addition, for every new subdivision of land involving three or more lots which are to be developed for residential purposes, the City Council, shall require a payment to the city, in lieu of a land dedication for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, wetlands or open space, of a sum not to exceed 10%, of the fair market value of the land to be subdivided. The fair market value of the land to be subdivided shall be the value as determined by the County Assessor at the time of final plat approval. The amount of the payment shall be set by the City Council, after taking into consideration the open space, park, recreational or common areas and facilities which the applicant proposes to reserve for public use within the subdivision. Funds received by the city, in lieu of land dedication, shall be placed in a special fund in accordance with M.S. § 462.358, subd. 2b, as it may be amended from time to time.

(C) All dedications shall be included in the dedicated portion of the plat, included in the development contract, or received by the city in warranty deed prior to the approval of the final plat, without further restrictions or reservations.  
(Ord. passed - -2007)

## ***ADMINISTRATION AND ENFORCEMENT***

### **§ 150.140 BUILDING PERMITS.**

A building permit is required for any building or other structure (including mobile homes) which is to be erected, moved, added to or structurally altered. An application may be obtained from the city's Zoning Administrator. Each application shall be accompanied by a plan showing the actual dimensions

of the lot to be built upon, the size, shape and location of the building to be erected and such other information as may be necessary to provide for the enforcement of the regulation. The fee for a building permit shall be established by the City Council by resolution on the fee schedule.

(Ord. passed - -2007)

**§ 150.141 ZONING ADMINISTRATOR.**

(A) This chapter shall be administered by a Zoning Administrator appointed by the City Council.

(B) The Zoning Administrator’s duties shall include the following:

(1) Determine if applications comply with terms of this chapter;

(2) Conduct inspections of buildings and uses of land to determine compliance with this chapter;

(3) Maintain permanent records of this chapter;

(4) Receive, file and forward all applications for appeals, variances, conditional uses and amendments to the designated official bodies; and

(5) Notify, in writing, any persons responsible for violating a provision of this chapter, indicating the nature of the violation and ordering the action necessary to correct it.

(Ord. passed - -2007)

**§ 150.142 VARIANCES.**

Where the City Council finds that extraordinary and unnecessary hardships may result from strict compliance with this chapter, variances may be granted; provided that, such variations will not have the effect of nullifying the intent and purpose of the ordinances.

(A) Application for issuance of a variance shall be made to the city’s Zoning Administrator to forward to the City Council. A statement of the exceptional conditions and the peculiar difficulty involved shall be included. A site plan may be prescribed by the City Council.

(B) The Zoning Administrator shall notify all property owners within 350 feet of the subject property by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten days ahead of the public hearing of the intent of the proposed action and the date when the petitioners shall appear before the City Council.

(C) Variances shall be granted if the City Council finds that the application meets all of the following criteria:

**Verndale - Land Usage**

(1) The strict enforcement of the provisions of this chapter create an undue hardship on the property owner;

(2) The granting of the variance is in keeping with the spirit and intent of this chapter;

(3) The plight of the property owner is due to circumstances unique to the property and is not caused by the current, or previous, property owner;

(4) The terms and conditions of the variance protect the essential character of the neighborhood;

(5) The granting of the variance is based on finding of facts other than economic considerations; and

(6) The granting of the variance is for a land use that is allowed under the terms of the ordinance and does not create a land use that is explicitly prohibited by this chapter.

(D) The City Council shall consider the affect of the proposed variance upon the health, safety and the general welfare of the community. It shall be shown that issuance of the variance will not merely serve as a convenience to the applicant, but is necessary to alleviate a demonstrable difficulty. No application for a variance which has been denied shall be resubmitted for a period of six months from the date of denial.

(E) (1) Variances shall not allow or create a use not provided for in a zoning district.

(2) Variances shall run with the land and are transferable with the real estate to a new owner.

(3) Variances shall be decided within 60 days of the receipt of a completed application as determined by the Zoning Administrator, unless extended pursuant to M.S. § 15.99, as it may be amended from time to time.

(4) Failure by the property owner to act in reliance on the variance within 12 months or failure to complete the work under a variance within one year, unless extended by the City Council, shall void the variance. A second extension shall require a new public hearing. This provision shall apply to any variance outstanding at the time of the ordinance adoption.

(5) Violation of the conditions on a variance shall void the variance.

(6) The Zoning Administrator shall file a copy of all approved variances with the County Recorder within 15 days of approval at the expense of the applicant.

(Ord. passed - -2007)

**§ 150.143 CONDITIONAL USES.**

Pursuant to M.S. Ch. 462, as it may be amended from time to time, the city shall issue conditional use permits to the property for structures or other specified uses upon approval after a public hearing where the city makes findings of fact that the proposal is consistent with the terms of this section.

(A) Application for the issuance of a conditional use permit shall be made to the Zoning Administrator. The application shall be accompanied by such plans, elevations and site plans as prescribed by the City Council.

(B) Upon receipt of the application and other requested material, the City Council shall hold at least one public hearing as regulated by law. Written notice of public hearings shall be sent by regular mail to all property owners of record within 350 feet of the selected property and the Zoning Administrator shall advertise the public hearing once in the legal section of the official newspaper at least ten days ahead of the public hearing.

(C) The City Council shall consider the following criteria in reviewing a proposed conditional use permit application.

(1) The following must be met:

(a) The use or development is an appropriate conditional use in the land use zone;

(b) The use or development, with conditions, conforms to the Comprehensive Land Use Plan;

(c) The use with conditions is compatible with the existing neighborhood; and

(d) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the city.

(2) The following must also be considered:

(a) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity;

(b) The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

(c) The conditional requirements at public cost for public facilities and services will not be detrimental to the economic welfare of the community;

**Verndale - Land Usage**

(d) The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;

(e) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use;

(f) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result;

(g) The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance; and

(h) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

(D) The City Council may designate conditions and require guarantees in the granting of conditional use permits. In permitting a new conditional use or alteration of an existing conditional use permit, the City Council may impose, in addition to the standards and requirement expressly specified by this chapter, additional conditions which the City Council deems necessary to protect the best interest of the surrounding neighborhood or the city as a whole. These conditions may include, but are not limited to, the following:

(1) Increasing the required lot size or yard dimension;

(2) Limiting the height, size or location of buildings;

(3) Controlling the location and number of vehicle access points;

(4) Increasing or limiting the street width;

(5) Increasing or limiting the number, size, location or lighting of signs;

(6) Requiring diking, fencing, screening, landscaping or other steps to protect adjacent or nearby property; and

(7) Designating sites for green space.

(E) The City Council shall hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant a permit. If it finds that the conditions exist which are necessary under this section in order for the City Council to recommend granting of the conditions use permit, it may attach to the permit such conditions and guarantees as may be necessary to assure reasonable development.

(F) A building permit must be applied for within nine months of the granting of the conditional use permit. Failure by the property owner to act in reliance on a conditional use permit within six months, or failure to complete the work under a conditional use permit within one year, unless extended by the City Council, shall void the permit. A second extension shall require a new public hearing. This provision shall apply to any conditional use permit outstanding at the time of ordinance adoption.

(G) An approved conditional use permit shall be filed with the County Recorder within 15 days of approval with the filing fee paid by the applicant.

(H) When the costs to the city involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the city for any additional costs. Such expenses may include, but are not limited to, payroll expenses for staff, mailing costs, consultant fees and other professional services that the city may need to retain in reviewing said permits.

(I) A violation of any condition set forth in a conditional use permit shall be a violation of this chapter and automatically terminates the permit.

(J) A conditional use permit shall become void one year after being granted by the City Council unless made use of and if discontinued for a period of 90 days or more.  
(Ord. passed - -2007)

#### § 150.144 AMENDMENTS.

The City Council may adopt amendments by four-fifths vote of the full Council to either the zoning ordinance or zoning map in relation to the land uses within a district or the boundaries of the district(s). Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the city.

(A) *Amendments.* The regulations, restrictions and boundaries set forth in this chapter may be amended, supplemented or repealed in accordance with the provisions of this subchapter.

(B) *Initiation.* Amendments may be initiated by the City Council or by petition of any person owning property within the boundaries of the district subject to the proposed amendment.

(C) *Hearing.* No amendment shall be adopted until a public hearing has been held thereon by the City Council. The notice of the time, place and purpose of the hearing shall be published in the official newspaper at least ten days prior to the day of the hearing. When an amendment involves changes in the district boundaries, a notice shall be served by the City Clerk/Treasurer at least ten days before the day of the hearing to each owner of the affected property and property situated wholly or partly within 350 feet of the use to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of the owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings.

(D) *Hearing*. The City Council shall hold the hearing within 60 days of the date of the petition. Adoption of a new zoning map shall require published notice only.

(E) *Consideration of criteria*. The City Council shall consider the criteria for land use categories identified in § 150.028 of this chapter, prior to deciding on any rezoning of land.

(F) *Publish*. The City Clerk/Treasurer shall publish a summary of the text of the change or description of boundary change or a new zoning map, whichever is appropriate, in the official newspaper within one week after action by the Council.

(Ord. passed - -2007)

#### **§ 150.145 APPEALS FROM CITY COUNCIL.**

(A) Appeals to the City Council may be taken by any person aggrieved by a decision of the Zoning Administrator. Such appeal shall be taken within ten calendar days after such decision by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall immediately transmit to the City Council all documents and exhibits constituting the record from which the appeal is taken. The appeal shall stay all proceedings pending the decision of the City Council.

(B) The City Council shall fix a reasonable time for hearing such appeal and shall render a decision within 30 days of the date of the hearing. The City Council shall give public notice of the hearing and shall further mail notice to all those personally known to be interested parties by members of the City Council.

(Ord. passed - -2007)

#### **§ 150.146 NOTICES.**

Notices for all public hearings required, as part of this chapter, shall include the legal description for the subject property, the description of the proposed action under consideration and the location, time and date for the public hearing. All notices shall be given in accordance with the requirements set forth in state statutes. Failure to receive notice called for by this chapter shall not invalidate any action taken by the city so long as the city acted reasonably in its attempt to provide such notice.

(Ord. passed - -2007)

#### **§ 150.999 PENALTY.**

Violations of this chapter shall be a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not to exceed \$500, and/or imprisonment for a period not to exceed 90 days for each offense. Each day a violation is permitted to exist shall constitute a separate offense.

(Ord. passed - -2007)



AMENDMENT TO TITLE XI: BUSINESS REGULATIONS CHAPTER 111: TOBACCO

Amend Chapter 111 as follows:

**Change 111.01** PURPOSE to read under the age of 21 years

**Change 111.99** PENALTY to read

(C) *Licenses and employees.* Any licensee, and any employee of a licensee, found to have violated this chapter shall be charged an administrative fine of \$300 for a first violation; \$600 for a 2<sup>nd</sup> violation within 36 months, and \$1,000 for a 3<sup>rd</sup> or subsequent violation within 36 months. Upon the 3<sup>rd</sup> or subsequent violation within 36 months of the first violation, a suspension of the retailer's license of at least seven days will be required and the retailer's license may be revoked.

**Remove 111.99** PENALTY

(E) *Minors*


Passed the 11th day of October, 2021.

Signed:

  
\_\_\_\_\_  
(Signature) 10-11-21

Tara Erckenbrack                      10/11/2021  
\_\_\_\_\_  
(Mayor)                                      (Date)

Witnessed:

  
\_\_\_\_\_  
(Signature)

Melissa Current                      10/11/2021  
\_\_\_\_\_  
(Clerk/Treasurer)                      (Date)