

## CHAPTER 1.

### GENERAL PROVISIONS

#### SECTION 100. CITY CODE.

**Subd. 1. How Cited.** This code of ordinances shall be known as The Minnesota Lake City Code and may be so cited.

**Subd. 2. Additions.** New ordinances proposing amendments or additions to the code shall be assigned appropriate code numbers and shall be incorporated into the code as of their effective date. Reference or citation to the code shall be deemed to include such amendments and additions. When an ordinance is integrated into the code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this ordinance, the clause indicating date of adoption, and validating signatures and dates. In integrating ordinances into the code, the clerk, in cooperation with the city attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this ordinance"; and perform like actions to ensure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

**Subd. 3. Numbering.** Each section number of this code consists of two component parts separated by a decimal. The first digit of the number refers to the chapter. If the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number.

**Subd. 4. Title Headings; Cross References.** Chapter, part, section, subdivision, and other titles shall not be considered part of the subject matter of this code but are intended for convenience only and not necessarily as comprehensive titles.

**Subd. 5. Copies.** Copies of this code shall be kept in the office of the clerk for public inspection or sale for a reasonable charge.

#### SECTION 110. DEFINITIONS.

**Subd. 1. General.** Unless the context clearly indicates otherwise, the following words and phrases have the meaning given them in this section.

**Subd. 2. City.** "City" means City of Minnesota Lake.

**Subd. 3. State.** "State" means State of Minnesota.

**Subd. 4. Council.** "Council" means the City Council.

**Subd. 5. Clerk.** "Clerk" means the City Clerk.

**Subd. 6. Person.** "Person" means any natural individual, firm, partnership, association, or corporation. As applied to partnerships or associations, the term includes the partners or members; as applied to corporations the term includes the officers, agents, or employees.

## **SECTION 120. STATUTORY RULES ADOPTED.**

The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, Chapter 645 are adopted by reference and made a part of this code. As so adopted, references in that chapter to laws and statutes mean provisions of this code and references to the legislature mean the council.

## **SECTION 130. EXISTING RIGHTS AND LIABILITIES.**

The repeal of prior ordinances and adoption of this code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this code. Insofar as provisions in this code are substantially the same as preexisting ordinances, they shall be considered as continuations thereof and not as new enactments. Any act done, offense committed, or right accruing, or liability, penalty, forfeiture or punishment incurred or assessed prior to the effective date of this code is not affected by the enactment of the code.

## **SECTION 140. HEARINGS.**

**Subd. 1. General.** Unless otherwise provided in this code, or by law, every public hearing required by law, ordinance, or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.

**Subd. 2. Notice.** Every hearing shall be preceded by ten (10) days' mailed notice to all persons entitled thereto by law, ordinance, or regulation unless only published notice is required. The notice shall state the time, place, and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subdivision.

**Subd. 3. Conduct of Hearing.** At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The council may adopt rules governing the conduct of hearings, records to be made, and such other matters as it deems necessary.

**Subd. 4. Record.** Upon the disposition of any matter after hearing, the council shall have prepared a written summary of its findings and decisions and enter the summary in the official council minutes.

## **SECTION 150. PENALTIES**

**Subd. 1. Petty Offenses.** Whenever an act or omission is declared by this code to be a petty offense or a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine of not more than the maximum penalty allowable for petty misdemeanors according to the laws of the State of Minnesota.

**Subd. 2. Misdemeanors.** In any other case, unless another penalty is expressly provided in this code, any person violating any provision of this code, or any rule or regulation adopted in pursuance thereof, or any other provision of any code adopted in this code by reference, including any provision declaring an act or omission to be a misdemeanor, shall, upon conviction, be subject to a fine and/or jail sentence of the maximum amount and length allowable for misdemeanor violations according to the laws of the State of Minnesota.

**Subd. 3. Separate Violations.** Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

**Subd. 4. Application to City Personnel.** 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 violation unless a penalty is specifically provided for such failure.

**Subd. 5. Administrative Civil Penalties.** Whenever an act or omission is declared by this Code to be subject to an administrative civil penalty, any person or entity responsible for the act, either directly or vicariously, shall be subject to the applicable fine as specified in the particular Section, subdivision, subsection or part of this Code.

## **SECTION 160. ADMINISTRATIVE OFFENSE PROCEDURES.**

**Subsection 160.01. Purpose.** Administrative offense procedures established pursuant to this chapter 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 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 provided for hereafter, the individual may withdraw from participation in the procedures, in which event the city may bring criminal charges in accordance with the 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 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.

**Subsection 160.02. Administrative Offense Defined.** An administrative offense is a violation of a provision of this code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Section 130.08.

**Subsection 160.03. Notice.** Any officer of the Minnesota Lake Police Department, or any other person employed by the city, authorized by the City Council, and having authority to enforce this code, 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. The 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.

**Subsection 160.04. Payment.** Once the notice is given, the alleged violator may, within seven days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation or notify the city in writing that they contest the violation. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

**Subsection 160.05. Contested Case.** Any person contesting an administrative offense pursuant to this Section may, within 14 days of the time of issuance of a administrative penalty notice request an appeal before the administrative penalty review board. The review board shall have the authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the review board, the violator shall pay the penalty imposed within 7 days. The administrative penalty review board shall be a 2 member panel as appointed by the Mayor. Any administrative review resulting in a tie by the board shall be governed by a tie breaking vote by the Mayor.

**Subsection 160.06. Failure to Pay.** In the event a party charged with an administrative offense fails to pay the penalty and does not notify the city that they are contesting the violation, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes and, if applicable, the fine may be levied as an assessment against the property owner. If the penalty is paid or if an individual is found to not have committed the administrative offense by the courts, no such charge may be brought by the city for the same violation.

**Subsection 160.07. Disposition of Penalties.** All penalties collected pursuant to this chapter shall be paid to the City's Finance Director and may be deposited in the city's general fund.

**Subsection 160.08. Offenses and Penalties.** Offenses which may be charged as administrative offenses and the penalties for such offenses may be established by resolution of the City Council from time to time. Copies of such resolutions shall be maintained in the office of the City Clerk.

**Subsection 160.09. Subsequent Offenses.** In the event a party is charged with a subsequent administrative offense within a 24-month period of paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be subject to an increased penalty as provided for in this section. First offenses shall have a penalty as specified by resolution periodically determined by the City Council. Second offenses within 24 months of the

first violation shall have a penalty subject to a 25% increase over the penalty as set by resolution. Third offenses shall have a penalty subject to a 50% increase. Any additional violation in a 24 month period shall be subject to the same penalty as a third violation.

**SECTION 170. SEPARABILITY.**

If any ordinance or part thereof in the Minnesota Lake City Code or hereafter enacted is held invalid or suspended, such invalidity or suspension shall not apply to any other part of the ordinance or any other ordinance unless it is specifically provided otherwise.

## CHAPTER 2.

### OPERATIONS AND ADMINISTRATION

#### SECTION 200. THE COUNCIL.

##### Subsection 200.01. Meetings.

**Subd. 1. Regular Meetings.** Regular meetings of the council shall be held on the second Wednesday of each calendar month at 7:00 p.m. Any regular meeting falling upon a holiday shall be held on the next following Monday at the same time and place. All meetings, including special and adjourned meetings, shall be held in the city hall, unless otherwise decided by the council. If a meeting is to be held at a place other than at city hall, a notice of such change shall be posted at city hall at least 24 hours prior to the meeting.

**Subd. 2. Special Meetings.** The mayor or any two members of the council may call a special meeting of the council upon at least 24 hours written notice to each member of the council. This notice shall be delivered personally to each member or shall be left at his usual place of residence with some responsible person. Similar notice shall be given to a legal newspaper in Faribault County and a copy shall be posted on the bulletin board at the city hall.

**Subd. 3. Initial Meeting.** At the first regular council meeting in January of each year the council shall: (1) Designate the depositories of city funds; (2) Designate the official newspaper; (3) Choose one of the council members as acting mayor, who shall perform the duties of the mayor during the disability or absence of the mayor from the city or, in case of a vacancy in the office of mayor, until a successor has been appointed and qualifies; (4) Appoint such officers and employees and such members of boards, commissions, and committees as may be necessary.

**Subd. 4. Public Meetings.** All council meetings, including special and adjourned meetings and meetings of council committees, shall be open to public.

##### Subsection 200.02. Presiding Officer.

**Subd. 1. Who Presides.** The mayor shall preside at all meetings of the council. In the absence of the mayor, the acting mayor shall preside. In the absence of both, the clerk shall call the meeting to order and shall preside until the council members present at the meeting choose one of their number to act temporarily as presiding officer.

**Subd. 2. Procedure.** The presiding officer shall preserve order, enforce the rules of procedure herein prescribed, and determine without debate, subject to the final decision of the council on appeal, all questions of procedure and order. Except as otherwise provided by statute or by these rules, the proceedings of the council shall be conducted in accordance with "Robert's Rules of Order, Revised".

**Subd. 3. Rights of Presiding Officer.** The presiding officer may make motions, second motions, or speak on any question except that on demand of any council member he shall vacate the chair and designate a council member to preside temporarily.

**Subsection 200.03. Minutes.**

**Subd. 1. Who Keeps.** Minutes of each council meeting shall be kept by the clerk or, in her absence, by the presiding officer who shall appoint a secretary pro tem. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the clerk and can be accurately identified from the description given in the minutes.

**Subd. 2. Approval.** The minutes of each meeting shall be reduced to typewritten form, shall be signed by the clerk, and copies thereof shall be delivered to each council member as soon as practicable after the meeting. At the next regular council meeting following such delivery, approval of the minutes shall be considered by the council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the council. If there is an objection, the council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

**Subsection 200.04. Order of Business.**

**Subd. 1. Order Established.** Each meeting of the council shall convene at the time and place appointed therefor. Council business shall be conducted in the following order:

- (1) Call to order
- (2) Roll call
- (3) Adopt agenda
- (4) Consent agenda
- (5) Approval of minutes
- (6) Visitor presentation
- (7) Petitioner, requests, and communications
- (8) Old business
- (9) New business
- (10) Staff reports
- (11) Approval of bills
- (12) Adjournment

**Subd. 2. Varying Order.** The order of business may be varied by the presiding officer; but all public hearings shall be held at the time specified in the notice of hearing.

**Subsection 200.05. Quorum and Voting.**

**Subd. 1. Quorum.** At all council meetings a majority of all the council members elected shall constitute a quorum for the transaction of business.

**Subd. 2. Voting.** The votes of the members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute. If any member is present but does not vote, the minutes, as to his name, shall be marked "Present-Not Voting."

**Subd. 3. Votes Required.** A majority vote of all members of the council shall be necessary for approval of any ordinance unless a larger number is required by statute. Except as otherwise provided by statute, a majority vote of a quorum shall prevail in all other cases.

#### **Subsection 200.06. Ordinances, Resolutions, Motions, Petitions, and Communications.**

**Subd. 1. Readings.** Every ordinance and resolution shall be presented in writing. Every ordinance shall either be read in full before the council or an oral summary of the ordinance be presented to the council prior to final adoption.

**Subd. 2. Signing and Publication Proof.** Every ordinance and resolution passed by the council shall be signed by the mayor, attested by the clerk, and filed in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.

**Subd. 3. Repeals and Amendments.** Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

**Subd. 4. Motions, Petitions, Communications.** Every motion shall be stated in full before it is submitted to a vote by the presiding officer and shall be recorded in the minutes. Every petition or other communication addressed to the council shall be in writing and signed by the petitioners or communicators and shall be read in full upon presentation to the council unless the council dispenses with the reading. Each petition or other communication shall be recorded in the minutes by title and filed with the minutes in the office of the clerk.

#### **Subsection 200.07. Committees.**

**Subd. 1. Committees Designated.** The council may create such committees, standing or special, as it deems necessary. Committees shall consist of as many members and perform such duties as the council may require.

**Subd. 2. Membership.** The chairman of each committee shall be designated by the mayor. Each committee member shall serve as appointed unless excused by a majority of the members of the council. If the committee does not provide otherwise, committee meetings shall be

held at the call of the chairman. The same notice shall be given of committee meetings as for special meetings of the council except that personal notice need not be given each member if the committee so decides.

**Subd. 3. Referral and Reports.** Any matter brought before the council for consideration may be referred by the presiding officer to the appropriate committee or to a special committee for a written report and recommendation before it is considered by the council as a whole. Each committee report shall be signed by a majority of the members and shall be filed with the clerk prior to the council meeting at which it is to be submitted. Minority reports may be submitted. Each committee shall act promptly and faithfully on any matter referred to it.

**Subsection 200.08. Suspension or Amendment of Rules.** These rules may be suspended by a majority vote of a quorum of council members.

**Subsection 200.09. Salaries of Mayor and Council Members.** Effective after the 2001 election of the Council Members, the salary of the Mayor shall be \$1,500.00 per year and the salary of each Council Member shall be \$1,200.00 per year. The Mayor and each Council Member shall receive \$50.00 per special meeting or public hearing they attend.

**Subsection 200.10. Reimbursement.** Members shall be reimbursed for attendance of meetings, boards or groups of which the City is a member either jointly or of cooperation. Members shall also be reimbursed for those meetings that they are asked to attend by the Council. Members will be reimbursed the standard mileage rate set by resolution of the Council and for any meals, lodging and other expenses incurred while in the performance of Council duties. The Council prior to payment shall approve all reimbursement requests.

## **SECTION 210. POLICE DEPARTMENT.**

**Subsection 210.01. Police Department Continued.** A police department is hereby continued. The head of the department shall be known as the chief of police and the number of additional members of the department, together with their ranks and titles, shall be determined by the council by resolution. The compensation to be paid members of the police department shall be fixed by the council. Members of the department shall be appointed by the council.

**Subsection 210.02. Chief of Police.** The chief of police shall have supervision and control of the police department and its members. He shall be responsible to the council for law enforcement and for property of the city used by the department. He shall be responsible for the proper training and discipline of the members of the department. He shall be responsible for the keeping of adequate records and he shall report to the council on the needs of the department and its work. Every member of the department subordinate to the chief shall obey the instructions of the chief and any superior officer. The council shall designate one of the police officers as acting chief, who shall have all the powers and duties of the chief during his absence or disability.

**Subsection 210.03. Duties of Police.** Members of the police department shall enforce the

ordinances and laws applicable to the city, bring violators before the county court, and make complaints for offenses coming to their knowledge. Members of the police department shall serve processes on behalf of the city and shall serve such notices as may be required by the council or other authority. When the city is not a party to the proceedings involved in the process or notice, the officer shall collect the same fees as provided by law for town constables. All such fees shall be paid into the city treasury.

**Subsection 210.04. Uniform and Badge.** Each member of the department shall, while on duty, wear a suitable badge and uniform furnished by the city, except that the chief may authorize the performance of specific duties while not in uniform. When a member terminates his membership in the department, he shall immediately deliver to the city his badge, uniform, and all other property of the city in his possession.

**Subsection 210.05. Extra Police.** In case of riot or other law enforcement emergency, the council may appoint for a specified time as many special police officers as may be necessary for the maintenance of law and order. During such term of appointment, the special police officers shall have only those powers and perform only those duties as shall be specifically assigned by the chief of police.

## **SECTION 220. FIRE DEPARTMENT.**

**Subsection 220.01. Fire Department Continued.** There is hereby continued in this city a volunteer fire department known as the Minnesota Lake Fire Department, hereafter referred to as the "department".

### **Subsection 220.02. Officers.**

**Subd. 1.** The department shall be composed of not less than 20 active members and may consist of as many members as may be deemed necessary for the adequate protection of the community, by the council.

**Subd. 2.** The officer positions of the department shall be the Chief, assistant chief, captain, lieutenant and such other officers as the Chief may deem necessary.

**Subd. 3.** The Chief, assistant chief, captain, lieutenant, secretary, and two (2) training officers shall be elected by the department for a period of two years at the January meeting. New officers will assume their offices immediately after the meeting in January.

**Subd. 4.** The chief of the department shall be accountable to the council. The assistant chiefs shall be held directly accountable to the Chief. The captain shall be held accountable directly to the chief and assistant chiefs and all other operational officers shall be accountable to their superior officers. The Chief, assistant chief, captain and lieutenant officers shall be elected by the department for a period of two years at the January meeting and those elected shall assume office immediately upon the close of said January meeting.

**Subd. 5.** All operational officers shall be appointed by the chief and are subject to removal by him at his discretion.

**Subsection 220.03. Duties of Chief.**

**Subd. 1.** It shall be the duty of the chief to call all regular and special meetings.

**Subd. 2.** The chief shall see that all subordinate officers execute their obligations and duties to the best of their abilities.

**Subd. 3.** The chief shall be present at all fires, if at all possible, and shall assume full charge of all operations.

**Subd. 4.** It shall be the duty of the chief to call special meetings at the written request of five (5) members of the department, such request stating the subject of the call.

**Subd. 5.** It shall be the chief's duty to enforce the rules and regulations of the department and to have general supervision over all the affairs of the department.

**Subd. 6.** It shall be within the chief's power to suspend or discharge any member for a just cause.

**Subd. 7.** The chief with the advice and consent of the Executive Committee shall formulate a set of general rules and procedures to govern the department and shall be responsible to the council for the personnel, morale and general efficiency of the department.

**Subd. 8.** It shall be the duty of the first assistant to assist the chief in the discharge of his duties; and, in the event of the absence of the chief, to assume the duties of the chief.

**Subd. 9.** At the option of the chief, a special committee may be appointed for any or all examinations of new members or subjects vital to the department.

**Subd. 10.** It shall be the duty of the chief to preside at all meetings, to preserve order, and to decide all points of order that may arise, subject to an appeal from his decision to the members of the department. In case of such an appeal, a two-thirds (2/3) vote of all members present shall be necessary to reverse his decision. He shall appoint an auditing committee and any other special committees necessary for the transaction of department business. The meetings shall be conducted in accordance with "Robert's Rules of Order, Revised".

**Subd. 11.** It shall be the duty of the chief to take charge of all property of the department and to see it is properly taken care of.

**Subsection 220.04. Duties of Secretary.**

**Subd.1.** It shall be the duty of the secretary to keep a record of all proceedings of the department, to call the roll, to record all absences, and to keep the books and preserve the records of the department. He shall collect all monies due the department, giving proper receipts therefor. He shall give each member at least five (5) days notice of any special meeting.

**Subsection 220.05. Committees.**

**Subd. 1.** It shall be the duty of the auditing committee to examine the accounts that may be referred to it by the department, to examine the accounts of the treasurer at least once a year, and more often if necessary, and to make a report at or before the next regular meeting.

**Subd. 2.** It shall be the duty of a three (3) member special committee appointed by the chief to investigate the character and standing of any person making application for membership in the department or subjects vital to the department and to report its findings to the department.

**Subd. 3.** There shall be a grievance committee elected by the members from the floor at the business meeting in January each year. The grievance committee shall consist of up to five members.

**Subd. 4.** It shall be the duty of the grievance committee to investigate such complaints and petitions as may be referred to it by the department and to report its findings to the chief. It shall also be its duty to investigate grievances of the members and outsiders and to adjust such grievances to the best of its ability in order to promote good fellowship and harmony in the department.

**Subd. 5.** Any committee appointed by the chief, or otherwise appointed or elected shall have authority to request assistance from any member or members of the department.

**Subd. 6.** Any member of any committee, whether appointed, elected or requested to serve on said committee, who fails to serve or shows lack of interest in serving shall be subject to the provisions of 220.06.

**Subsection 220.06. Removal of Officers.**

**Subd. 1.** Any officer of the department may be impeached therefrom and removed from his office by a two-thirds (2/3) vote of members present at a regular or special meeting for abuse of his authority or misconduct in his office. The charges against him shall be made in writing and filed with the secretary at least one (1) month before any vote shall be taken on it and a copy of said charge shall be served on him at least two (2) weeks before such a vote shall be taken.

**Subsection 220.07. Members.**

**Subd. 1.** Persons who are able-bodied residents of the City of Minnesota Lake and those persons who reside within a seven (7) mile radius of the City of Minnesota Lake shall be

eligible for membership in the department provided they are not younger than 19 years of age and who successfully complete a pre-employment drug test as required by City Policy. At the time the applicant is considered for membership, the department shall consider whether the applicant is employed within the City limits of the City of Minnesota Lake.

**Subd. 2.** Any member shall have the privilege of presenting the name or names of prospective members.

**Subd. 3.** Any person eligible shall, if interested in joining the department, fill out an application form supplied by the department and shall submit same to the chief or any member of the department. This application shall be reviewed by a special committee and upon their recommendation the application shall be voted on by the members of the department at the January business meeting. All members must also be approved by the council.

**Subd. 4.** All eligible persons having submitted an application shall be accepted by a plurality of the members present by secret ballot. Each member shall have one vote for each active membership position to be filled. Those applicants receiving the most votes shall be accepted to fill open active memberships first. The remaining applicants, if any, shall fill any alternate membership position then available in order of the percentage of votes obtained by each. All applicants approved by the council shall enter into the probationary period of six (6) months.

**Subd. 5.** Each person, before he may become a probationary firefighter, must undergo a thorough physical examination by a physician who shall complete the physical examination form supplied by the department. Such report shall contain a statement whether or not, in that physician's opinion, there is any evidence of myocarditis, coronary sclerosis or pneumonia or its equal in the candidate at the time of his examination. Such report shall be retained and permanently kept in the files of the department. The cost of the physical examination will be paid by the department.

#### **Subsection 220.08. Duties.**

**Subd. 1.** It shall be the first duty of all active and probationary members of the department to obey all commands of their officers while on duty or during fire department related activities.

**Subd. 2.** It shall be the duty of the members to be present at all meetings, if possible, and on every alarm of fire to assemble at the fire station without delay and assist in getting the apparatus to the fire and in readiness for operation as soon as possible.

**Subd. 3.** Officers and or members shall not appear at meetings of the department nor at drills or fires in a state of intoxication, nor be guilty of conduct unbecoming a gentleman, nor otherwise be a disgrace upon their department under penalty of suspension or discharge.

**Subd. 4.** All members of the department shall become familiar with the handling and

working of all articles of equipment.

**Subd. 5.** Two roll calls may be taken at drill meetings by the department secretary: One roll call at the station at the beginning of the drill; and another roll call prior to the business meeting. Members must be present at all roll calls to receive credit for the meeting.

**Subd. 6.** Members missing three or more consecutive meetings per year shall become non-active members provided they have no acceptable excuse. Upon application they may be reinstated by a three-fifths (3/5) vote of the grievance committee.

**Subd. 7.** It shall be the duty of all members to familiarize themselves with all the rules and procedures regarding the department.

**Subsection 220.09. Practices.**

**Subd. 1.** No member shall take or loan any article from the station without permission of the chief.

**Subd. 2.** No member shall loan his uniform, or any part thereof, or his key to any person other than a member of the department without permission of the chief.

**Subd. 3.** No member shall divulge or make known to any person not a member any remarks made at the meeting nor disclose the vote against a candidate for membership or any other business of the department.

**Subsection 220.10. Quorum.** A forty (40) percent attendance of the eligible membership shall constitute a quorum.

**Subsection 220.11. Order of Meeting.** Department business shall be conducted in the following order:

1. Roll call.
2. Reading of minutes of previous meeting.
3. Report of fire officers and committees,
4. Nomination of candidates for membership.
5. Election of officers and members.
6. Presentation of bills and communications and actions on same.
7. Unfinished and miscellaneous business.
8. New business.
9. Good of the department.
10. Adjournment.

**Subsection 220.12. Relief Association.** The members and officers of the department may organize themselves into a firefighters relief association in accordance with law.

## **SECTION 230. AMBULANCE DEPARTMENT.**

### **Subsection 230.01. Definitions.**

1. Ambulance — means a vehicle which is designed or intended to be used in providing transportation of wounded, injured, sick, invalid or incapacitated human beings.
2. Attendant — means a trained and qualified individual responsible for the operation of an ambulance and the care of the patients whether or not the attendant also serves as driver.

**Subsection 230.02. Establishment of Volunteer Ambulance Service.** There is hereby established a volunteer ambulance service, which shall be known as the "Minnesota Lake Volunteer Ambulance Service," which shall be subject to the jurisdiction, authority and control of the City Council of said City.

**Subsection 230.03. Composition of Volunteer Ambulance Service.** The volunteer ambulance service shall be composed of a chairman, vice-chairman and not less than twelve (12) ambulance attendants.

**Subsection 230.04. Election.** The initial chairman and the initial vice-chairman of the volunteer ambulance service shall be appointed by the City Council and each shall hold office for two years and until his successor has been duly elected, thereafter the chairman and vice-chairman shall be selected annually by the members of the volunteer ambulance service, subject to confirmation by the City Council. Either the chairman or the vice-chairman may be discharged for cause by the Mayor of the City for malfeasance or misfeasance of duties, upon notice specifying the grounds for such discharge. The party to be discharged may demand a hearing before the full Council by notice given in writing directed to the City Clerk, who shall set a date therefor which shall not be less than ten (10) days nor more than thirty (30) days after receipt of such demand and shall give five (5) days notice in writing of the time, date and place of the hearing served upon the party to be discharged and all members of the City Council. The Council shall hear the matter and consider the evidence, including any testimony of witnesses and shall determine the matter by majority vote affirming or disaffirming the discharge at the hearing.

**Subsection 230.05. Duties and Function of the Chairman.** It shall be the duty of the chairman to organize, supervise and control a volunteer ambulance service for the purpose of providing ambulance services to persons in the area of the City of Minnesota Lake in conformity with M.S.A. 144.801 through 144.8092 and Regulations of the State of Minnesota, Department of Public Health; to set and review rates charged for such services; to set compensation for officers and members of the volunteer ambulance service; to establish operating policies and procedures for the volunteer ambulance service; to prepare and to recommend to the City Council an operating budget for the next succeeding year of operation of such volunteer ambulance service; to provide for regular, special and annual meetings of the volunteer ambulance service; to adopt rules for the transaction of business; to keep complete records of all proceedings which shall be public and to file

copies of minutes of all meetings with the Clerk of said City within seven (7) days of such meetings; to make annual reports of its activities to the City Council; to make such reports as the Council may from time to time require or request and to abide by and carry out all actions and resolutions as adopted and directed by the City Council.

**Subsection 230.06. Duties and Function of the Vice-Chairman.** In the absence or disability of the chairman, the vice-chairman shall perform all the functions and exercise all the authority of the chairman.

**Subsection 230.07. Service Contracts with Townships.** The chairman shall have power to negotiate ambulance service contracts with townships or other political subdivisions and to initiate such negotiations and to recommend to the City Council their adoption, but all such contracts should be subject to final approval by the City Council.

**Subsection 230.08. Retention of Powers.** The City Council of the City of Minnesota Lake in conformity with and compliance with the laws of the State of Minnesota shall have, maintain and retain title to all property, whether real, personal or mixed, used for, in conjunction with or incident to the volunteer ambulance service and to retain the obligation and full power and authority to enforce, order, amend and repeal all ordinances, rules, regulations and orders establishing and governing the volunteer ambulance service hereunder established.

## **SECTION 240. SURPLUS PROPERTY.**

### **Subsection 240.01. Disposal of Excess Property.**

**Subd. 1. Declaration of Surplus and Authorizing the Sale of Property.** The Clerk may, from time to time, recommend to the Council that certain personal property (chattels) owned by the City is no longer needed for a municipal purpose and should be sold. By action of the Council, said property shall be declared surplus, the value estimated and the City Clerk authorized to dispose of said property in the manner stated herein.

**Subd. 2. Surplus Property With a Total Estimated Value of Less Than \$10,000.** The Clerk shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from \$1,000.00 to \$10,000.00 Notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten (10) days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City Hall at the Clerk's option. Such sale shall be by auction. The City Clerk may sell property worth less than \$1,000.00 in any commercially reasonable manner without the need to publish notice of the sale of said property.

**Subd. 3. Surplus Property With a Total Estimated Value Over \$10,000.00.** The Clerk shall offer for public sale, to the highest bidder, surplus property worth a total estimated value over \$10,000.00. Notice of such public sale shall be given stating time and place of sale and generally describing property to be sold at least ten (10) days prior to the date of sale by publication

once in the official newspaper. Such sale shall be to the person submitting the highest sealed bid.

**Subd. 4. Receipts From Sales of Surplus Property.** All receipts from sales of surplus property under this Section shall be placed in the General Fund.

**Subsection 240.02. Persons Who May Not Purchase - Exception.**

**Subd. 1. City Employees.** No employee of the City who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in a professional capacity, may be a purchaser of property under this Section. Other City employees may be purchasers, if they are not directly involved in the sale, if they are the highest bidder, and if at least one (1) week's published or posted notice of sale is given.

**Subd. 2. Unlawful Act.** It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.

**SECTION 250. ABANDONED PROPERTY.**

**Subsection 250.01. Abandoned Motor Vehicles.**

**Subd. 1. Impoundment and Sale.** The city police department shall take into custody and impound any abandoned motor vehicle as defined by Minnesota Statutes, Section 168B.02, Subdivision 2. It shall give notice of the taking as provided by law and if the owner or any lienholder does not reclaim the vehicle within the period provided by law, it shall provide for the sale of the vehicle to the highest bidder at public auction or sale following two weeks' published notice.

**Subd. 2. Summary Action in Certain Cases.** When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale under Subdivision 1 and shall not be subject to the notification, reclamation, or title provisions of Minnesota Statutes 168B.01 to 168B.13.

**Subd. 3. Disposition of Proceeds.** The proceeds of the sale of an abandoned motor vehicle shall be placed in the general fund of the city. If the former owner or entitled lienholder makes application and furnishes satisfactory proof of ownership or lien interest within 90 days of the sale, he shall be paid the proceeds of the sale of the vehicle less the cost of towing, preserving, and storing the vehicle and all administrative, notice and publication costs incurred in its handling.

**Subsection 250.02. Other Abandoned Property.**

**Subd. 1. Procedure.** All other property lawfully coming into the possession of the city shall be disposed of as provided in this section.

**Subd. 2. Storage.** The department of the city acquiring possession of the property shall arrange for its storage. If city facilities for storage are unavailable or inadequate, the department may arrange for storage at privately owned facilities.

**Subd. 3. Claim by Owner.** The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

**Subd. 4. Sale.** If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the chief of police of the city after two weeks' published notice setting forth the time and place of the sale and the property to be sold.

**Subd. 5. Disposition of Proceeds.** The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, he shall be paid the proceeds of the sale of his property minus the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

## **SECTION 260. FRANCHISES.**

### **Subsection 260.01. Cable Franchise.**

#### **Subd. 1. Definitions.**

- (1) "Franchisor" and "Franchising Authority" is the City of Minnesota Lake.
- (2) "Cable communications system" means any system which operates for hire the service of receiving and amplifying broadcast by one or more television or radio stations and any other programs originated by a cable communications company or by another party, and distributing such programs by wire, cable, microwave or other means, whether such means are owned or leased to persons who subscribe to such service.
- (3) "Franchisee" is Lake Cablevision, Inc., a Minnesota Corporation.
- (4) "FCC" is the Federal Communications Commission of the United States.
- (5) "Class IV Channel" means a signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the cable communications system.
- (6) "Technical capacity for non-voice return communications" means the provision of a system design which, with the installation of cable and

amplifiers, would be suitable for the subsequent insertion of non-voice communications electronic modules.

- (7) The word "shall" is mandatory.
- (8) The word "may" is permissive.
- (9) The word "Board" is the Minnesota Cable Communications Board.

**Subd. 2. Compliance with Minnesota Cable Communications Boards Franchise Standards.** The Franchisee shall at all times be in compliance with the franchise standards of the Minnesota Cable Communications Board.

**Subd. 3. Certificate of Confirmation.** The franchise shall cease to be in force and effect if the Franchisee fails to obtain either a regular certificate of confirmation or renewal of a certificate of confirmation from the Board, provided, however, that the Franchisee may operate the cable communications system while the Board is considering the application for the renewal of the certificate of confirmation.

**Subd. 4. Compliance with State and Federal Laws.** The Franchisee and the Franchising Authority shall conform to all state laws and rules regarding cable communications not later than one (1) year after they become effective unless otherwise stated and to all federal laws and regulations regarding cable communications as they become effective.

**Subd. 5. Franchise Term.** The franchisee shall have an initial franchise term of fifteen (15) years and, if granted by the Franchising Authority, a renewal term of up to fifteen (15) years.

**Subd. 6. Renegotiation of Franchise Terms.** Renegotiation between the Franchisor and Franchisee shall commence twelve (12) months before the end of the franchise term unless Franchising Authority determines not to reissue the franchise to the Franchisee or desires to consider additional applicants for a franchise.

**Subd. 7. Franchise Exclusivity.** This franchise is non-exclusive.

**Subd. 8. Sale or Transfer.** The Franchisee shall not sell or otherwise transfer its rights so as to allow a new controlling interest under this franchise without the prior written consent of the Franchising Authority which consent shall not be unreasonably withheld.

**Subd. 9. Rates.**

The following is the initial schedule of the cable service rates:

Type of Service	Charge
-----------------	--------

Monthly Service Charges

Basic Service (both residential and non-residential) \$8.50

Pay Television (both residential and non-residential)

One Pay Channel \$9.50 month

Additional Outlets

Basic Service \$1.00/month/outlet

Pay Television \$2.00/month/outlet

Service Charges No Charge

Disconnects No Charge

Installations

Residential and Commercial

Regular Installation

1 Outlet \$30.00

Each Additional Outlet 5.00

Others

Reconnect charge, same establishment 10.00

Relocate charge, same establishment

1 Outlet 5.00

Each additional outlet 5.00

Franchisee reserves the right to eliminate or reduce any or all of the before mentioned rates or charges to aid Franchisee in obtaining new subscribers.

Franchisee reserves the right to apply a deposit on converters equal to the cost of the converter.

Franchisee reserves the right to request a deposit before connection of a potential subscriber that cannot provide adequate credit reference.

Franchisee may require payment of any unpaid amounts due to Franchisee for services previously provided as a condition of any request for reconnection.

Pay service will consist of one (1) or more channels, which may include movies, plays, sport events, or other entertainment offerings. Pay service will only be available to subscribers taking both Basic Service and Pay Television.

All subscribers, as a condition of receiving cable service, shall agree to the terms and

conditions imposed upon the Franchisee by Franchisee's cable service suppliers.

**Subd. 10. Duration of Rates.** There shall be no increase in installation and monthly service charges for eighteen (18) months after 90 percent of the distribution system is activated.

The franchisee will notify, in writing, the Franchising Authority of this event.

**Subd. 11. Rate Change Procedure.** The Franchisee shall notify by mail its cable subscribers and the Franchising Authority and shall publish any proposed changes in rates or charges at least ninety (90) days in advance of the effective date for such changes. The Franchisee's proposed rate changes shall become effective as proposed unless a written notice of objection or a written notice of request for further information is made by Franchising Authority to the Franchisee.

In the event that such a notice is received by the Franchisee, the Franchising Authority shall schedule a public hearing to investigate and discuss the proposed rate changes; provided that such public hearing is conducted within thirty (30) days of the originally proposed effective date of the changes. In the event that public hearing is conducted, the proposed rate changes shall become effective thirty (30) days after the public hearing date unless prior to the expiration of such thirty (30) days period the Franchising Authority shall deny the proposed rate changes by means of a resolution.

The Franchisor shall not control the rates for expanded CATV service or advertising. Expanded CATV service means all communications service other than Basic CATV and service charges for installation. Expanded CATV service includes but is not limited to, pay TV, burglar alarm service, data or other electronic transmission service, facsimile reproduction service, meter reading service, and home shopping service.

These provisions do not limit the right of Franchisee to pass along to the subscribers state and local sales tax or any specific copyright fees.

**Subd. 12. Franchise Administrator.** The mayor and city council of Minnesota Lake, shall be responsible for the continuing administration of this franchise.

**Subd. 13. Liability Insurance.** The Franchisee shall indemnify and hold harmless the Franchising Authority at all times during the term of the franchise and shall maintain throughout the term of the franchise liability insurance in the amount not less than \$1,000,000.00 combined limits insuring both the Franchising Authority and the Franchisee with regard to all damages and penalties which they may legally be required to pay as a result of the exercise of the franchise.

**Subd. 14. Liability for Injury to Franchisee's Facilities.** Nothing in this Franchise shall relieve any person from liability arising out of injury to the Franchisee or the Franchisee's property, including without limitation injury occurring as a result of performing any work connected with grading, regarding or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

**Subd. 15. Performance Bond.** At the time the franchise becomes effective and at all times thereafter until the Franchisee has liquidated all of its obligation with the Franchising Authority, the Franchisee shall furnish a performance bond, certificate of deposit or any other type

of instrument approved by the Franchising Authority in the amount of \$10,000.00. This amount is deemed by the Franchising Authority to be adequate compensation for damages resulting from the Franchisee's nonperformance. The Franchising Authority may, from year to year, in its sole discretion, reduce the amount of the performance bond or instrument.

**Subd. 16. Franchisee's Credentials.** The Franchisee's technical ability, financial condition, and legal qualification were considered and approved by the Franchising Authority. A public hearing was held after reasonable notice affording an opportunity to be heard.

**Subd. 17. Channel Capacity and Other System Capabilities.** The Franchisee shall construct a cable system capable of transmitting from its headend in the frequency band of 54 to 440MHz which will allow for up to 35 channels.

The cable system will also be designed to allow reception at its headend in the frequency band of 5 to 30 MHz which will allow for up to 4 channels.

**Subd. 18. Construction Schedule.** Within ninety (90) days of the granting of the franchise, the Franchisee shall apply for all necessary governmental permits, licenses, certificates, and authorizations; engineering, design, and construction shall be completed within one (1) year after the granting of the franchise. Persons along the route of the energized cable will have individual "drops" within the same period of time, if the same are desired. The requirements of this section may be waived by the Franchising Authority upon occurrence of unforeseen events or acts of God. Extensions of cable lines of Franchisee beyond the initial service territory shall be made at the sole discretion of Franchisee.

**Subd. 19. Easements and Construction Authorizations.** The City of Minnesota Lake hereby does grant unto the Franchisee an easement over its municipal properties including, but not limited to, roads, streets, sidewalks, and driveways and all public places for the purpose of constructing and operating a communications system. Franchisee's duty to provide cable communication service to any subscriber or subscribers is conditioned upon the receipt by Franchisee of necessary easements from private parties without unreasonable cost or effort to Franchisee.

The Franchisee shall obtain a permit from the proper municipal authority before commencing construction of any communications system, including the opening or disturbance of any road, street, sidewalk, driveway, or public place. If the Franchisee fails to meet the conditions of the permit, the Franchising Authority shall have the right to correct or cause to be corrected, at the sole expense of the Franchisee, any violations of the conditions of the permit such as the return of the land to its previous grading, the clean up of construction debris, and the like.

**Subd. 20. Compliance with Applicable Codes.** All wires, conduits, cable, and other property and facilities of the Franchisee shall be located, constructed, installed, and maintained in compliance with applicable codes. The Franchisee shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic, or travel upon the streets and public places of the franchise area or endanger the lives or property of any person.

**Subd. 21. Relocation of Plant.** The following procedure shall be used by the Franchisee and Franchising Authority for the relocation or removal of the Franchisee's wires, conduits, cables and other property located in a street, right-of-way, or public place whenever the Franchising Authority undertakes public improvements which affect the Franchisee's property.

The Franchising Authority or municipality shall give thirty (30) days' written notice to the Franchisee of the actions it wishes the Franchisee to take with respect to the relocation or removal of the Franchisee's equipment and shall allow a reasonable period of time thereafter to complete such request.

The Franchisee shall, at its expense, protect, support, temporarily disconnect, relocate, or remove its property when required by the Franchising Authority. The Franchising Authority hereby consents to the abandonment by Franchisee of its buried property in place. Upon permanent abandonment of any buried property in place, the Franchisee shall submit to the Franchising Authority an instrument to be approved by the Franchising Authority transferring ownership of such property to the Franchising Authority or municipality.

**Subd. 22. Technical Standards.** The rules of the Federal Communications Commission relating to cable communications system contained in subpart K of part 76 of the Federal Communications Commission's rules and regulations relating to cable communications systems are incorporated by reference. The results of any tests required by the Federal Communications Commission shall be filed within 10 days of the conduct of such tests with the Franchising Authority. During the term of this franchise and any extension hereof, Franchisee shall keep informed of technological developments in the area of cable communications and shall make reasonable efforts to make such technology available to its subscribers, subject to technical, financial, and other limitations of the system.

**Subd. 23. Special Testing.** In the event that special testing is required to determine the source of technical difficulties, the Franchisee shall be responsible for the costs of special testing.

**Subd. 24. Non-Voice Return Capability.** The Franchisee shall provide a cable communications system having the technical capability for non-voice return communications. Nothing herein shall be construed to require the Franchisee to supply or otherwise provide to the subscribers any terminal equipment or device necessary to utilize the non-voice return capability of the system. The Franchisee shall provide such a capability upon request by a subscriber with respect to the energized cable, cable "drops" and connections. Upon such request, Franchisee shall propose rates and charges to apply to installation and use of such capability by subscribers.

**Subd. 25. Subscriber Privacy.** No signals of a Class IV cable communications channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which shall be renewed at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such

authorization. The authorization shall be revokable at any time by the subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV cable communications activity planned for the purpose of monitoring individual viewing patterns or practices.

No information or data obtained by monitoring transmission of a signal from a subscriber terminal, including but not limited to lists of the names and addresses of such subscribers or any lists that identify the viewing habits of subscribers shall be sold or otherwise made available to any party other than to the Franchisee and its employees for internal business use, and to the subscriber who is the subject of that information, unless the Franchisee has received specific written authorization from the subscriber to make such data available.

Written permission from the subscriber shall not be required for the Franchisee conducting systemwide or individually addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth above.

**Subd. 26. Subscriber Complaints.** All complaints by the Franchisor, subscribers, or other citizens regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to the cable communications system shall be investigated by the Franchisee.

Complaints regarding the quality of service, equipment malfunctions, and similar matters shall first be directed to Franchisee's office. Should Franchisee fail to satisfy a complaint, it may then be directed to the Mayor of Minnesota Lake for investigation. In response to a complaint, Franchisee shall be afforded a reasonable opportunity to present written statements of its position. The Mayor of Minnesota Lake shall attempt to resolve the complaint, but, if this cannot be achieved, he shall submit a recommendation to the City Council, recommending that: (1) the complaint be dismissed, or (2) corrective action be taken by the Franchisee. Appeal from the City Council's action may be made to the appropriate judicial or administrative forum.

**Subd. 27. Repairs and Complaints.** The Franchisee shall maintain a local office with a local manager and telephone number for the reception of subscriber complaints from the cable service area and shall maintain a repair service capable of responding to subscriber complaints or requests for service within twenty-four (24) hours after the receipt of the complaint or request. Cost; included in making repairs and adjustments shall be borne by the Franchisee.

**Subd. 28. Termination.** The Franchising Authority reserves the right to terminate and cancel any franchise granted hereunder and rescind all rights and privileges associated therewith in the event that:

- (1) The Franchisee substantially violates any provision of this franchise ordinance, attempts to evade any of the provisions of the franchise ordinance or practices any fraud or deceit upon the Franchising Authority;
- (2) The Franchisee becomes insolvent, enters into receivership or liquidation, files an application for bankruptcy or for composition of creditors, is unable to pay its debts as they mature or is in financial difficulty of sufficient

consequence so as to jeopardize the continued operation of the network; or

- (3) A violation by the Franchisee of any FCC or applicable state order ruling or the order or ruling of any other governmental body having jurisdiction over the Franchisee, unless the Franchisee is lawfully contesting the legality or applicability of such rule or order.

Upon the occurrence of any of the above-listed events, the Franchising Authority shall provide the Franchisee with written notice citing the reasons alleged to constitute cause for termination of the franchise. The Franchising Authority shall allow the Franchisee a reasonable time, but in any event no less than thirty (30) days subsequent to receipt of the notice, in which to remedy the cause. If, during such period, the cause is remedied to the satisfaction of the Franchising Authority, the Franchising Authority may declare the notice to be null and void. If the cause is not remedied to the satisfaction of the Franchising Authority, during such period, the Franchising Authority shall provide the Franchisee with an opportunity to be heard at a public hearing before the governing body of the Franchising Authority prior to the termination of the franchise.

In the event that the Franchising Authority determines to terminate the franchise, the Franchisee shall have a period of thirty (30) days, beginning the day next following the date of the conclusion of the public hearing at which the termination of the franchise is considered, within which to file an appeal with the Board, pursuant to Minn. Stat. Section 238.14.

During such thirty (30) day period and until the Board determines the appeal, if an appeal is taken, the franchise shall remain in full force and effect, unless the term thereof sooner expires. If the Board approves of the action of the municipality, the franchise shall terminate immediately; if the Board disapproves of the action of the municipality, the franchise shall remain in full force and effect during the term thereof unless sooner terminated in accordance with law or the Board rules. Any such appeal to the Board is a contested case to which the Board is not a party.

**Subd. 29. Abandonment.** The franchisee may not abandon any portion of the cable communications facilities provided hereunder without having given three (3) months' prior written notice to the Franchising Authority and the Board. The Franchisee may abandon any cable communications service or any portion thereof without compensating the Franchising Authority for damages resulting to it from such abandonment.

**Subd. 30. Removal of Cable Equipment Upon Termination or Forfeiture.**

Upon termination or forfeiture of a Franchise, the Franchisee shall remove its cable, wires, and appliances from the streets, alleys and other public places within the franchise area if the Franchising Authority so requests in writing.

In the event the Franchisee fails to remove its equipment within a reasonable time after the written request of the Franchising Authority, the Franchising Authority may accept bids for a contract to remove the equipment. The Franchisee shall have the right to bid on such a contract. The Franchising Authority may award the contract to the appropriate bidder and charge the costs of such contract to the Franchisee. The provisions of this Section shall not apply to equipment of the Franchisee which is buried; provided, however, the Franchisee shall transfer ownership of any buried equipment not so removed to the Franchising Authority.

**Subd. 31. Municipal Right to Purchase System.** If the franchise or cable system is offered for sale, the Franchising Authority shall have the right to purchase the system.

**Subd. 32. Access Channels.** The Franchisee shall provide to each of its subscribers who receive all, or any part of, the total services offered on the system, reception on at least one specifically designated access channel. Franchisees providing only alarm services or only data transmission services for computer operated functions shall be exempt from providing access channel reception to alarm and data service subscribers. The specially designated access channel may be used by local educational authorities and local government on a first come, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the Franchisee shall lease time to commercial or non-commercial users on a first come, nondiscriminatory basis if the demand for such time arises. The Franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or non-commercial users who have leased time on the . specially designated access channel. The VHF spectrum shall be used for the specially designated access channel required in this paragraph.

The Franchisee and Franchising Authority shall establish rules pertaining to the administration of the specially designated access channel.

Nothing in this ordinance shall be construed so as to preclude the installation of converters by the system on a voluntary basis, or as a result of an agreement arrived at through negotiation between the parties to a franchise, or by a potential access user who wishes to install converters in order to make use of any additional channel or channels.

**Subd. 33. Unauthorized Cable Tapping.** It shall be unlawful for any person or persons to obtain any cable television services by installing, rearranging, or tampering with any facilities or equipment of any cable television company, or any firm or private person unless the same is done with the knowledge of any with the permission of such cable television company, firm, or private person. Any person or persons found guilty of a violation of any of the provisions of this section shall be deemed guilty of a misdemeanor for which a sentence of not more than ninety (90) days or a fine of not more than \$500.00, or both, may be imposed.

**Subd. 34. Amendments.** The Franchising Authority shall have the continuing inherent right, during the term herein or any renewal hereof, to amend this franchise ordinance from time to time as it shall see fit, subject to the conditions herein set forth. Before any amendment hereto is adopted, except those amendments proposed by Franchisee herein, the Franchising Authority shall give reasonable notice of the amendment to Franchisee and Franchisee shall have the right to appear before the governing body of the Franchising Authority and give oral or written testimony regarding the amendment. Any amendment hereto shall neither materially alter the terms herein nor shall such amendment materially interfere with Franchisee's privilege herein granted to conduct its cable communications business and to make a reasonable return therefrom.

**Subd. 35. Separability.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent

jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Should any provision of this franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected hereby.

### **Subsection 260.02. Gas Franchise.**

**Subd. 1.** Gorhams', Inc., a Minnesota Corporation, d/b/a Northwest Natural Gas, its lessees, successors and assigns, hereinafter referred to as Grantee, be and is hereby granted a non-exclusive authority for a period of twenty-five years to erect and maintain a gas plant and/or gas system and any and all necessary mains, pipes, services and other appliances thereunto appertaining in, upon, over, across, and along the streets, alleys, bridges, and public places in the City of Minnesota Lake, Minnesota, hereinafter referred to as City, for the transmission, distribution and sale of natural and/or propane gas for heating, industrial and all other uses and purposes in the City.

**Subd. 2.** Whenever the Grantee, in the construction or maintenance of its system or in the installation of any extension thereto, shall cut into or take up any pavement or shall make any excavation in any street, avenue, alley or public places, within the City, the same shall be done in a manner as not to interfere with the use of such thoroughfares by the public. The Grantee shall use such safeguards as may be necessary to prevent injury to persons or property during such construction work, and upon its completion, all pavement shall be replaced in as good condition as it was before taken up. All excavations shall be refilled and all obstructions shall be removed at the expense of the Grantee and to the satisfaction of the City. In the event that the Grantee shall fail to comply with the provisions of this section after having been given reasonable notice, the City may do such work as may be needed to properly repair said thoroughfares and the cost thereof shall be repaid to the City by the Grantee.

**Subd. 3.** The Grantee in erecting and maintaining said gas distribution system, and in entering and using said streets, highways, avenues, alleys and public places in the City and in laying its gas equipment, shall not in any manner interfere with or injure any improvement which the City now has or may hereafter have upon any of its streets, alleys, highways or public places.

**Subd. 4.** Grantee agrees for and on behalf of itself, its lessees, successors and assigns, that for and during the term and period of this grant, it will maintain in the City an adequate, modern, standard and sufficient gas system and will maintain and operate the same in a modern and adequate fashion to meet the necessities and requirements of the City and its industries and inhabitants. Provided, however, that no obligation shall extend to, or be binding upon the Grantee, to construct or extend its system or furnish natural and/or propane gas or gas service within the City if Grantee is, for any reasons, unable to obtain delivery of natural and/or propane gas at or near the corporate limits of the City or an adequate supply thereof to warrant the construction or extension of its system. Provided, further that when the amount of natural and/or propane gas supplied to Grantee at or near the limits of this City is insufficient to meet the additional

requirements of connected or new consumers Grantee shall have the right to prescribe reasonable rules and regulations for allocating the available supply of natural and/or propane gas for such additional requirements to domestic, commercial and industrial consumers in that order of priority.

**Subd. 5.** Grantee agrees that all authority and rights in this Ordinance shall at all times be subject to all rights, power and authority now or hereafter possessed by said City to regulate rates, to control the manner in which Grantee shall use the streets, alleys, bridges and public places of the City and to regulate the manner in which Grantee shall use and enjoy the franchise granted.

**Subd. 6.** The Grantee shall, at all times, maintain an adequate supply of clean, standard gas of British Thermal Unit heating value as fixed in its rate schedule filed from time to time with the City; plus or minus fifty (50) British Thermal Units per cubic foot of gas. Should the monthly average of British Thermal Units vary more than fifty (50) from the value in the rate schedule, the rate then in effect shall be automatically and correspondingly adjusted during any period or periods of time in which such different British Thermal Unit value shall be furnished. The City shall have the right to request Grantee to furnish satisfactory proof of the British Thermal Unit content of the gas.

**Subd. 7.** The Grantee shall hold the City harmless from any and all claims and actions, litigation or damage, arising out of the passage of this Ordinance or the construction, erection, installation, maintenance or operation of the system operated by authority of this Ordinance within the limits of the City or the negligence of its employees in the operation thereof, including Court costs and reasonable attorney fees in making defense against such claims. A copy of the process served upon the City shall be served by the City upon the Grantee. The Grantee shall have the right to defend in the name of the City and to employ counsel for such purposes.

**Subd. 8.** The Grantee shall not be required at its own cost to extend its gas distribution system more than one hundred (100) feet to serve a customer.

**Subd. 9.** If the Grantee shall be in default in the performances of any of the terms and conditions of this Ordinance and shall continue in default for more than thirty days after receiving notice from the City Council of such default, the City Council may, by ordinance duly passed and adopted, terminate all rights granted under this Ordinance to the Grantee. The notice of default shall specify the provision or provisions in the performance of which it is claimed the Grantee is in default. Said notice shall be in writing and served in the manner provided by the laws of Minnesota for the service of original notices in civil actions.

**Subd. 10.** The right and authority herein granted shall be non-exclusive and shall be and continue for a period of twenty-five (25) years from and after the date of the legal enactment of this Ordinance.

**Subd. 11.** This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

**Subd. 12.** The Grantee shall use its best efforts to obtain natural gas for distribution pursuant to this Ordinance.

**Subsection 260.03. Electrical Franchise.**

**Subd. 1.** In this ordinance "City" means the City of Minnesota Lake, County of Faribault, State of Minnesota.

**Subd. 2.** "City Utility System" refers to the facilities used for providing any public utility service owned or operated by city or agency thereof, including sewer and water service.

**Subd. 3.** "NSP" means Northern States Power Company, a Minnesota corporation, its successors and assigns.

**Subd. 4.** "Telephone Company" means Minnesota Lake Telephone Company, a Minnesota corporation, its successors and assigns.

**Subd. 5.** "Notice" means a writing served by any party or parties on any other party or parties. Notice to NSP shall be mailed to any officer thereof at 414 Nicollet Mall, Minneapolis, Minnesota. Notice to Telephone Company shall be mailed to any officer thereof at Minnesota Lake, Minnesota. Notice to city shall be mailed to the city clerk.

**Subd. 6.** "Public grounds" means city parks and squares as well as land held by the city for the purpose of open space.

**Subd. 7.** "Public ways" means streets, avenues, alleys, parkways, walkways and other public rights of way within the city.

**Subd. 8. Grant of Franchise.** City hereby grants NSP, for a period of 20 years from the date hereof, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of city as its boundaries now exist or as they may be extended in the future.

For these purposes, NSP may construct, operate, repair and maintain an electric distribution system and electric transmission lines, including poles, pole lines, duct lines, fixtures, and any other necessary appurtenances in, on, over, under and across the public ways and public grounds of city. NSP may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to the further provisions of this franchise.

**Subd. 9. Restrictions.** NSP facilities included in such electric distribution system, transmission lines and appurtenances thereto, shall be Located and constructed so as not to interfere with the safety and convenience of ordinary travel along and over said public ways. NSP's construction, operation, repair, maintenance and location of such facilities shall be subject to such reasonable regulations as may be imposed by city pursuant to charter, ordinance or statute.

**Subd. 10.** NSP shall not construct any new installations within or upon any public grounds without receiving the prior written consent of an authorized representative of city for each new installation.

**Subd. 11.** NSP shall provide field locations for all its underground facilities when requested by city within a reasonable period of time. The period of time will be considered reasonable if it compares favorably with the average time required by the cities in the county to locate municipal underground facilities for company. ("County" refers to the county in which city is located.)

**Subd. 12. Tree Trimming.** NSP is also granted the permission and authority to trim all trees and shrubs in the public ways and public grounds of city interfering with the proper construction, operation, repair and maintenance of any poles, pole lines, and fixtures or appurtenances installed in pursuance of the authority hereby granted, provided that NSP shall save city harmless from any liability in the premises.

**Subd. 13. Service Rates.** The service to be provided and the rates to be charged by NSP for electric service in city are subject to the jurisdiction of the Public Utilities Commission of this State or its successor agency.

**Subd. 14.** Whenever city shall grade, regrade or change the line of any public way, or construct or reconstruct any city utility system therein and shall, in the proper exercise of its police power, and with due regard to seasonable working conditions, when necessary order NSP to relocate permanently its lines, services and other property located in said public way, NSP shall relocate its facilities at its own expense. City shall give NSP reasonable notice of plans to grade, regrade or change the line of any public way or to construct or reconstruct any city utility system therein. However, after NSP has so relocated, if a subsequent relocation or relocations shall be ordered within ten (10) years from and after first relocation, city shall reimburse NSP for such non-betterment relocation expense which NSP may incur on a time and material basis; provided, if subsequent relocations are required because of the extension of city utilities to previously unserved areas, NSP may be required to relocate at its own expense at any time.

**Subd. 15.** Nothing contained in this franchise shall require NSP to relocate, remove, replace or reconnect at its own expense its facilities where such relocation, removal, replacement or reconnection is for convenience and not of necessity in the construction or reconstruction of a city utility system or extension thereof.

**Subd. 16.** Any relocation, removal, or rearrangement of any NSP facilities made necessary because of the extension into or through city of a federally aided highway project shall be governed by the provisions of Minnesota Statutes Section 161.46 as supplemented or amended; and further, it is expressly understood that the right herein granted to NSP is a valuable property right and city shall not order NSP to remove or relocate its facilities without compensation when a public way is vacated, improved or re-aligned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless

the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to NSP.

**Subd. 17.** Nothing contained herein shall relieve any person, persons or corporations from liability arising out of the failure to exercise reasonable care to avoid injuring NSP's facilities while performing any work connected with grading, Degrading, or changing the line of any public way, or with the construction or reconstruction of any city utility system.

**Subd. 18. Indemnification.** NSP shall indemnify, keep and hold city free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair or operation of NSP's electric facilities located in, on, over, under, or across the public ways and public grounds of city, unless such injury or damage grows out of the negligence of city, its employees, or agents, or results from the performance in a proper manner of acts reasonably deemed hazardous by NSP, but such performance is nevertheless ordered or directed by city after notice of NSP's determination. In the event a suit shall be brought against city under circumstances where the above agreement to indemnify applies, NSP at its sole cost and expense shall defend city in such suit if written notice thereof is promptly given to NSP within a period wherein NSP is not prejudiced by lack of such notice. If such notice is not reasonably given as hereinbefore provided, NSP shall have no duty to indemnify nor defend. If NSP is required to indemnify and defend, it will thereafter have complete control of such litigation, but NSP may not settle such litigation without the consent of city, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to NSP; and NSP, in defending any action on behalf of city shall be entitled to assert in any action every defense of immunity that city could assert in its own behalf.

**Subd. 19. Vacation of Public Ways.** Except where required solely for a city improvement project, the vacation of any public way or public ground, after the installation of electric facilities, shall not operate to deprive NSP of its rights to operate and maintain such electrical facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to NSP.

**Subd. 20. Written Acceptance.** NSP shall, if it accepts this ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the city clerk within ninety (90) days after the final passage and any required publication of this ordinance.

**Subd. 21. Provisions of Ordinance.** Every section, provision, or part of this ordinance is declared separate from every other section, provision or part; and if any section, provision or part shall be held invalid, it shall not affect any other section, provision or part. Where a provision of any other city ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.

**Subd. 22. Publication Expense.**  
The expense of any publication of this franchise ordinance required by law shall be paid by NSP.

#### **Subsection 260.04. Telephone Franchise.**

**Subd. 1. Minnesota Lake Telephone Company; Local Regulation.** City hereby authorizes Telephone Company to construct, operate, repair and maintain its telephone system and transmission lines, including poles, lines, fixtures, exchanges, and any other necessary appurtenances in, on, over, under and across the public ways and public grounds of the City, including all reasonable things necessary or customary to accomplish these purposes, subject, however, to the further provisions of this ordinance.

**Subd. 2. Restrictions.** Telephone Company facilities included in such telephone system, transmission lines and appurtenances thereto, shall be located and constructed so as not to interfere with the safety and convenience of ordinary travel along and over said public ways. Telephone Company's construction, operation, repair, maintenance and location of such facilities shall be subject to such reasonable regulations as may be imposed by city pursuant to charter, ordinance or statute.

**Subd. 3.** Telephone Company shall not construct any new installations within or upon any public grounds without receiving the prior written consent of an authorized representative of city for each new installation.

**Subd. 4.** Telephone Company shall provide field locations for all its underground facilities when requested by city within a reasonable period of time. The period of time will be considered reasonable if it compares favorably with the average time required by the cities in the county to locate municipal underground facilities for company. ("County" refers to the county in which city is located.)

**Subd. 5. Tree Trimming.** Telephone Company is also granted the permission and authority to trim all trees and shrubs in the public ways and public grounds of city interfering with the proper construction, operation, repair and maintenance of any poles, lines, and fixtures or appurtenances installed in pursuance of the authority hereby granted, provided that Telephone Company shall save city harmless from any liability in the premises.

**Subd. 6. Service Rates.** The service to be provided and the rates to be charged by Telephone Company for telephone service in city are subject to the jurisdiction of the Public Utilities Commission of this State or its successor agency.

**Subd. 7. Relocating.** Whenever city shall grade, regrade or change the line of any public way, or construct or reconstruct any city utility system therein and shall, in the proper exercise of its police power, and with due regard to seasonable working conditions, when necessary, order Telephone Company to relocate permanently its lines, services and other property located in said public way, Telephone Company shall relocate its facilities at its own expense. City shall give Telephone Company reasonable notice of plans to grade, regrade or change the line of any public way or to construct or reconstruct any city utility system therein. However, after Telephone

Company has so relocated, if a subsequent relocation or relocations shall be ordered within ten (10) years

from and after first relocation, city shall reimburse Telephone Company for such non-betterment relocation expense which Telephone Company may incur on a time and material basis; provided, if subsequent relocations are required because of the extension of city utilities to previously unserved areas, Telephone Company may be required to relocate at its own expense at any time.

**Subd. 8.** Nothing contained in this franchise shall require Telephone Company to relocate, remove, replace or reconnect at its own expense its facilities where such relocation, removal, replacement or reconnection is for convenience and not of necessity in the construction or reconstruction of a city utility system or extension thereof.

**Subd. 9.** Any relocation, removal, or rearrangement of any Telephone Company facilities made necessary because of the extension into or through city of a federally aided highway project shall be governed by the provisions of Minnesota Statutes Section 161.46 as supplemented or amended; and further, it is expressly understood that the right herein granted to Telephone Company is a valuable property right and city shall not order Telephone Company to remove or relocate its facilities without compensation when a public way is vacated, improved or re-aligned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to Telephone Company.

**Subd. 10.** Nothing contained herein shall relieve any person, persons or corporations from liability arising out of the failure to exercise reasonable care to avoid injuring Telephone Company's facilities while performing any work connected with grading, regrading, or changing the line of any public way, or with the construction or reconstruction of any city utility system.

**Subd. 11. Indemnification.** Telephone Company shall indemnify, keep and hold city free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair or operation of Telephone Company's telephone facilities located in, on, over, under, or across the public ways and public grounds of city, unless such injury or damage grows out of the negligence of city, its employees, or agents, or results from the performance in a proper manner of acts reasonably deemed hazardous by Telephone Company, but such performance is nevertheless ordered or directed by city after notice of Telephone Company's determination. In the event a suit shall be brought against city under circumstances where the above agreement to indemnify applies, Telephone Company at its sole cost and expense shall defend city in such suit if written notice thereof is promptly given to Telephone Company within a period wherein Telephone Company is not prejudiced by lack of such notice. If such notice is not reasonably given as hereinbefore provided, Telephone Company shall have no duty to indemnify nor defend. If Telephone Company is required to indemnify and defend, it will thereafter have complete

control of such litigation, but Telephone Company may not settle such litigation without the consent of city, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to Telephone Company; and Telephone

Company, in defending any action on behalf of city shall be entitled to assert in any action every defense or immunity that city could assert in its own behalf.

**Subd. 12. Vacation of Public Ways.** Except where required solely for a city improvement project, the vacation of any public way or public ground, after the installation of telephone facilities, shall not operate to deprive Telephone Company of its rights to operate and maintain such telephone facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Telephone Company.

**Subd. 13. Written Acceptance.** Telephone Company shall, if it accepts this ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the city clerk within ninety (90) days after the final passage and any required publication of this ordinance.

**Subd. 14. Provisions of Ordinance.** Every section, provision, or part of this ordinance is declared separate from every other section, provision or part; and if any section, provision or part shall be held invalid, it shall not affect any other section, provision or part. Where a provision of any other city ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.

**Subd. 15. Publication Expense.** The expense of any publication of this franchise ordinance required by law shall be paid by Telephone Company.

## CHAPTER 3.

### STREETS, PARKS, PUBLIC PROPERTY AND IMPROVEMENTS

#### SECTION 300. STREET EXCAVATIONS.

**Subsection 300.01. Permit Required.** No person, except an authorized city employee or a contractor performing work under a contract with the city, shall make any excavation in a street, alley, sidewalk, or public ground without first having secured a permit therefor from the city clerk. The fee for such permit shall be as set forth in the City Fee Schedule, as set by the City Council from time to time by resolution, for each location covered by the permit. This fee may be waived by action of the counsel upon request.

**Subsection 300.02. Application and Regulations.** The city council shall prepare the necessary application forms and permits required under section 300.01. It shall also prepare such rules and regulations with respect to excavations as it finds necessary to protect the public from injury, prevent damage to public or private property, and minimize interference with the public use of streets, alleys, sidewalks, and public grounds. Any person making an excavation covered by this section shall comply with such rules and regulations.

**Subsection 300.03. Bond.** Any permittee except a public utility corporation or a bonded plumber shall file with the city clerk a corporate surety bond in an amount determined by the City Council during permit application approval and conditioned that the permittee will:

1. Perform work in connection with the excavation in accordance with applicable ordinances and regulations;
2. Indemnify the city and hold it harmless from all damage caused in the execution of such work; and
3. Pay all costs and damages suffered by the city by reason of the failure of the permittee to observe the terms of applicable ordinances and regulations or because of negligence in the execution of the work.

The bond shall be approved as to form and legality by the insurance consultant for the city.

Any permittee except a public utility corporation shall furnish proof that the permittee has in existence an insurance policy protecting him from liability to the public, including the city, in an amount equal to the maximum claim the city might be required to pay under Minnesota Statutes, Chapter 466.

**Subsection 300.04. General Regulations for Excavations.** Street openings shall be made in a manner that will cause the least inconvenience to the public. Provision shall be made for the passage of water along the gutters and, whenever possible, at least one-half of the traveled portion

of the street shall be left open and in good condition for the safe passage of vehicles. Open excavations shall be guarded with substantial barriers and marked with red flags and at night with red lights or flashing devices. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent freezing. Any person responsible for exposing a city main or pipe so that it might be damaged by freezing shall be liable to the city for all damages caused by such freezing and all damages sustained by others by such freezing for which the city may be liable.

**Subsection 300.05. Refilling Excavations.** Every street excavation shall be refilled as soon as possible after the work is completed and paving, sidewalks, and appurtenances shall be replaced in at least as good condition as before the excavation to the satisfaction of the council. All dirt and debris shall be removed immediately. Any person who fails to comply with these requirements within 24 hours after notice from the city shall be liable to the city for the full cost incurred by the city in remedying the defect and restoring the street, sidewalk, alley, or public ground to its proper condition. The cost shall be an obligation of the surety on the bond of the permittee.

**Subsection 300.06. Map of Subsurface Installations.** The city clerk shall maintain a map showing the location of all utility and other installations made beneath the surface of any public street, grounds or right of way. The information on the map shall be sufficiently complete and accurate to permit any one making an excavation in a public place having any underground installation to avoid damage to any existing underground installation and to properly locate any new underground facilities. New underground installations shall be recorded on the map as soon as practicable upon the issuance of an excavation permit or the completion of the underground installations.

## **SECTION 310. ASSESSABLE CURRENT SERVICES; OBLIGATION OF PROPERTY OWNERS AND OCCUPANTS.**

**Subsection 310.01. Definition.** The term "current service" as used in this ordinance means one or more of the following: repair of water service lines; repair of streets, sidewalks, alleys and other public right of ways, and the operation of a street lighting system.

**Subsection 310.02. Installation and Repair of Water Service Lines.** Whenever the city installs or repairs water service lines serving private property under Chapter 4 of this code, the public works director shall keep a record of the total cost of the installation or repair against the property and deliver such information to the city clerk annually by August 15 as to each parcel of property on which the cost has not been paid.

### **Subsection 310.03. Repair of Sidewalks.**

**Subd. 1. Duty of Owner.** The owner of any property within the city abutting a public sidewalk shall keep the sidewalk in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the council.

**Subd. 2. Inspections; Notice.** The public works director shall make such inspections

as are necessary to determine that public sidewalks within the city are kept in repair and safe for pedestrians. If he finds that any sidewalk abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served by registered or certified mail or by personal service upon the record owner of the property or the occupant if the owner does not reside within the city or cannot be found therein, ordering such owner to have the sidewalk repaired and made safe within 40 days and stating that if the owner fails to do so, the public works director will do so on behalf of the city, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

**Subd. 3. Repair by City.** If the sidewalk is not repaired within 40 days after receipt of the notice, the public works director shall report the facts to the council and the council shall by resolution order the public works director to repair the sidewalk and make it safe or order the work done by contract in accordance with law. The public works director shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the city clerk.

**Subsection 310.04. Personal Liability.** The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of such service. As soon as the service has been completed and the cost to the owner determined, the city clerk or other designated official shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the city clerk.

**Subsection 310.05. Assessment.** On or before September 1 of each year, the clerk shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this ordinance. The council may then spread the charges against property benefitted as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the council may determine in each case.

## **SECTION 320. LOCAL IMPROVEMENT POLICY.**

**Subsection 320.01. Petitions.** No petition for construction of any public improvement outlined in this policy shall be accepted or acted upon by the council unless it is filed with the city clerk on or before October 1 of the year prior to the year of requested construction.

### **Subsection 320.02. Classification of Projects.**

**Subd. 1. General.** In general, public improvements are divided into the three classes specified in the following subdivisions according to their respective benefit to the whole city and to the property specially served by the improvement, taking into account past city practice.

**Subd. 2. Class A.** Class A improvements are those which are of general benefit to the city at large, including but not limited to: (1) public buildings, except a building which is part of an improvement described in one of the following subdivisions; (2) any public park, playground,

or recreational facility; (3) the installation and maintenance of street lighting systems; and (4) any other improvement not described in Minnesota Statutes, Section 429.021, Subdivision 1. Any such improvement shall be financed from general city funds and not from special assessments.

**Subd. 3. Class B.** Class B improvements are those which are of benefit to more than the abutting or nearby property. Class B improvements include: (1) trunk water mains larger than six inches in residential areas; (2) trunk water mains larger than twelve inches in commercial/industrial areas; (3) trunk sanitary sewer mains larger than eight inches; (4) arterial street construction, reconstruction, resurfacing, overlay and seal coating; and (5) the construction of off-street parking facilities.

**Subd. 4. Class C.** Class C improvements are those which are primarily, if not exclusively, of benefit to property abutting or in the area of the improvement, including (1) the construction of sidewalks; (2) the construction of lateral water mains no larger than six inches in diameter in residential areas; (3) the construction of lateral water mains no larger than twelve inches in diameter in commercial/industrial areas; (4) the construction of lateral sanitary sewer mains no larger than eight inches in diameter; (5) the construction of curbs and gutters; and (6) residential street construction, reconstruction, resurfacing, overlay and/or seal coating.

**Subsection 320.03. Financing Class B and C Improvements.** It is the policy of the city to finance Class B and C improvements by the methods prescribed in sections 320.04, 320.05, and 320.06. The apportionment of the cost between benefitted property and the city at large and the method of levying assessments prescribed in those sections shall be followed in each case unless the council, by resolution, finds that because of special circumstances stated in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement described in Minnesota Statutes, Section 429.02 and not placed in Class A, B, or C by Section 320.02 shall be financed as the council determines to be most feasible and equitable in each case.

**Subsection 320.04. Assessment Regulations for Class B Improvements.**

**Subd. 1. Trunk Lines.** Trunk water mains and sanitary sewers. When a water main or sanitary sewer is laid across or adjacent to unplatted property, the city shall not defer the assessment against the unplatted property if the assessment would be made for such an improvement in the case of platted property. When a trunk water main or sanitary sewer is constructed and is to serve also as a lateral water main or sanitary sewer for abutting property, the abutting property shall be assessed for the cost of an equivalent lateral water main or sanitary sewer. The city will pay the cost of the trunk water main or sanitary sewer, minus the cost of the lateral water main or sanitary sewer, that is assessed. This city cost will be paid for from the appropriate city funds.

**Subd. 2. Arterial Street Construction.** An arterial street is one which is greater than a seven (7) ton capacity. When an arterial street is paved, the cost of the pavement on a seven (7) ton roadway shall be assessed against the benefitted property on the basis of frontage on the abutting street. When the standards for arterial street construction are higher than those the city would use

for a residential street, the cost to be assessed to the benefitted residential property shall be based on the cost of residential street construction. The remainder of the cost shall be paid from appropriate funds,  
or from the property benefitting from the higher standards.

**Subd. 3. Storm Sewer Improvement Tax District.** Improvements to the storm sewer system in the established storm sewer improvement tax district will be financed in accordance with the provisions of Minnesota Statutes, Chapter 444.

**Subd. 4. Resurfacing, Overlay, Seal Coating.** The cost of resurfacing, overlay, or seal coating of arterial streets shall be assessed to the benefitted property based upon the frontage as determined by Section 320.06.

#### **Subsection 320.05. Assessment Regulations for Class C Improvements.**

**Subd. 1. Sidewalks.** The cost of the construction of sidewalks shall be assessed, 100 percent, on the basis of frontage against property abutting the side of the street on which the sidewalk is located.

**Subd. 2. Water and Sewer.** The cost of lateral water mains and of lateral sanitary sewer shall be assessed, 100 percent, against abutting property on the basis of frontage. The cost of water mains to be assessed includes the service lines if furnished, hydrants, and valves. The cost of sanitary sewer includes service lines, if furnished.

Hook-up shall be defined as a connection by the property owner to the city water or sewer service as defined herein. The hook-up charge shall be as determined by the council. Service lines shall be defined as the connector attached to the sewer interceptor, sewer lateral, or water main that permits individual connection to the appropriate service. It shall be the responsibility of the property owner to repair, replace and maintain individual service pipes from the property line to the utility pipe.

**Subd. 3. Streets.** The cost of construction of any street, including curb and gutter, shall be assessed on the basis of frontage. The cost of constructing or reconstructing street intersections shall be paid by the city. Abutting property owners shall be assessed 85 percent of the remaining costs.

**Subd. 4. Resurfacing, Overlay, Seal Coating.** The cost of resurfacing, overlay or seal coating of residential streets shall be assessed to the benefitted property based upon the frontage as determined by Section 320.06.

#### **Subsection 320.06. Special Rules.**

**Subd. 1. Corner Lots.** For any assessment made on the basis of frontage, except for water, or sanitary sewer, corner lots shall be assessed for footage along the front of the lot plus 40 percent of the side footage. The other 60 percent of the side footage shall be spread among all other assessed properties. In the case of an assessment for a lateral water main or sanitary sewer, corner

lots shall be assessed for the footage along the front side of the lot, unless the lot is large enough to accommodate another building which would be benefitted by the project.

**Subd. 2. Intersections.** The cost of water and sewer improvements in street intersections shall be included as part of the total assessable cost. In the case of any kind of street improvement, intersection costs shall be paid by the city.

**Subd. 3. Adjusted Frontage.** When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined according to one of the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment:

A. Front footage shall be measured at setback on cul-de-sacs and sharply curved streets and irregularly shaped lots.

B. Equivalent front footage shall be determined by dividing the square footage of the lot by the general lot depth of the subdivision for pie shaped lots and irregular shaped lots where other rules do not apply.

C. Where frontage curves so greatly as to give a general appearance of a corner, the lot shall be considered a corner lot and equivalent front footage, as well as side footage where required, shall be determined on the basis of an irregularly shaped lot.

D. Where a lot consists of a combination of rectangular and pie shaped or irregular portions, the equivalent front footage shall be determined as the sum of the straight front footage plus the remainder in accordance with applicable rules.

**Subsection 320.07. Federal, State and County Aid Use.** If the city receives financial assistance from the federal government, the state, or the county to defray a portion of the cost of any improvement project, such aid shall be used first to reduce the share of the project cost which would be met from general city funds according to the assessment formula contained in this ordinance. If such aid is more than the amount of the improvement cost to be borne by the city, the remainder of the aid so received shall be placed in the appropriate city improvement fund or distributed in such other manner as the council shall determine.

**Subsection 320.08. Procedural Restrictions.**

**Subd. 1. General.** In addition to conforming to the provisions of Minnesota Statutes, Chapter 429, proceedings for a public improvement to be paid wholly or partly by special assessments shall conform to the requirements of this section.

**Subd. 2. Findings on Market Value Increase.** Before determining proposed special assessments on any project, the city shall gather as much evidence as is practical and useful to show that the aggregate benefits to property to be assessed do not exceed the cost of the project and that each proposed individual assessment does not exceed the increase in market value on the property on which the assessment is to be made.

**Subd. 3. Waivers and Assessment Hearing.** After receiving bids for a project, the council may, at its discretion, request submittal of signed waivers of the right to appeal the assessment when levied or may elect to hold a public assessment hearing to determine if there is substantial objection to the proposed assessments. If the council elects to hold a public assessment hearing, the contract for the project shall not be awarded until the 30 day appeal period has expired.

**Subsection 320.09. Partial Prepayment.** After the adoption of the assessment roll of any improvement project by the city council, the owner of any property assessed may, prior to the certification of the assessment or payment of the first installment to the county auditor, pay to the city treasurer all or any portion of the assessment, but not less than \$100.00. The remaining unpaid balance shall be spread over the period of time established by the council for installment payment of the assessment.

**Subsection 320.10. Certification of Assessments.** After the adoption of any special assessment by the council, the clerk shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the county auditor to be extended on the proper tax lists of the county.

**Subsection 320.11. Permanent Improvement Revolving Fund.**

**Subd. 1. Establishment.** There is hereby established a permanent improvement revolving fund of the city to be held and administered by the clerk, separate and apart from all other funds of the city, for the purpose of financing local improvements.

**Subd. 2. Source of Fund.** The fund shall be a permanent fund of the city and the monies necessary for its maintenance shall be provided by taxation, by the appropriation of available monies from other funds of the city, and/or by the issuance and sale of permanent improvement revolving fund bonds of the city as deemed necessary from time to time by the council.

**Subd. 3. Disposition of Fund.** Monies in the fund shall be used only as directed by resolution of the council for the purpose of advancing to local improvement funds the cost of improvement for which assessments are to be levied. All such monies so advanced to an improvement fund shall be restored as soon as sufficient monies are received in the improvement fund, together with interest at a rate fixed by the council at not less than 5 1/4 percent per annum during the time for which such monies have been so furnished.

**Subd. 4. Investment.** Whenever there are monies in the fund not immediately needed for local improvements, such monies shall be invested by the clerk under the direction of the council in any securities authorized for investment of municipal funds by law.

**Subd. 5. Transfer of Surplus.** When the fund accumulates monies in excess of any amounts reasonably anticipated to be needed for local improvement fund advances, the council may, by resolution adopted by a four-fifths vote, declare any part of such excess to be surplus and transfer it to the general fund.

**Subsection 320.12. Interest Rate.**

The interest rate shall be set by the council on each special assessment project, and the rate of interest shall depend upon current market conditions.

**Subsection 320.13. Assessment Period.** Assessments shall be spread over such a period of time as the council shall approve.

**Subsection 320.14. Adjustments.** In the event the literal application of the provisions outlined herein would result in an inequitable distribution of special assessments, the city council reserves the right to adjust the policy so as to achieve a more equitable distribution.

**Subsection 320.15. General Policy Statement.** It is the intent of this policy that such projects performed hereunder shall apply only to projects in existing developments within the Minnesota Lake city limits. Projects shall mean the replacement of utilities in existing developments and the placement of utilities in existing developments not currently receiving city utility services. The financing of utilities in new developments shall be completed in accordance with policy to be hereafter adopted by the city council.

**SECTION 330. REGULATION OF PARKS.**

**Subsection 330.01. Definitions.**

- (1) A park is a playground, recreation center or any other area in the city, owned or used by the city and devoted to active or passive recreation.
- (2) Beer is any malt liquor containing not more than seven (7) per cent alcohol by weight.

**Subsection 330.02. Prohibited Conduct.**

It shall be unlawful for any person in a park to:

- (1) Bring or possess any glass beverage container into any park.
- (2) Hurt, molest, harm, frighten, kill or trap any animal, wildlife, reptile or bird.
- (3) Have or discharge any pistol or revolver.
- (4) Have or discharge any rifle, shotgun, BB gun, air gun or other weapon in which the propelling force is gunpowder, a spring or air.
- (5) Have or discharge any sling shot, bow and arrow or similar device.
- (6) Possess or consume any intoxicating beverages, other than beer.

## **SECTION 340. BUILDING CODE.**

**Subsection 340.01. Building Permit Required.** No person shall erect, alter, wreck, or move any building or part thereof without securing a building permit therefor.

**Subsection 340.02. Application for Building Permit.** Application for a building permit shall be made to the City Clerk on blank forms to be furnished by the City. Each such application for a permit to construct or alter a building shall be accompanied by a plan, drawn to scale, showing the dimensions of the lot to be built upon and the size and location of the building to be erected.

**Subsection 340.03. Approval of Application Procedure.** Applications that include a change in building size, new construction, the moving in of a structure, raze (wreck), or a change in the structure's shape must be reviewed by the Building Commissioner and approved by the Council before any work may take place. Other applications may be approved from time to time as it is deemed fit by the Clerk. The Clerk may at her/his discretion hold any application for approval by the council for any reason. Applications shall contain such other information as may be deemed necessary for the proper enforcement of this ordinance. Clerk shall transmit a list of approved applications to the Council.

**Subsection 340.04. Incompatible Structures.** Whenever an application is filed with the City for a building permit for any structure to be built, enlarged, or altered within or moved in or into the city, and the building commissioner finds that the application, plans, and specifications, and the plot plan submitted, are incomplete the Building Commissioner will require the applicant to provide such plans, drawings and/or plot diagrams as is deemed necessary to determine if the structure will conform to set backs, building codes, building standards and architect designs mandated by the City.

**Subsection 340.05. Length of Building Permit.** Upon the filing of such application with the City clerk, he/she may as outlined in 1301.21 grant approval. Applications that include a change in building size, new construction, the moving in of a structure, raze (wreck), or a change in the structure's shape must be reviewed by the Building Commissioner and approved by the Council before any work may take place. A building permit shall expire one (1) year from the date it was issued by the City Clerk.

**Subsection 340.06. Building Permit Fee.** The fee for a building permit for a new structure shall be as set forth in the City Fee Schedule as determined by resolution of the City Council from time to time.. The fee for a building permit for removal, reconstruction or alteration of a building shall be as set forth in the City Fee Schedule as determined by resolution of the City Council from time to time. Expenses incurred for an engineer, if required, shall be added to the cost of all building permits issued pursuant to this section.

\_\_\_\_\_ **Subsection 340.07. Penalties.** Any work done in violation of this ordinance shall be removed or made to conform thereto. Any person, firm partnership or corporation violating or failing to comply with the provisions of this ordinance shall be guilty of a petty misdemeanor. Each violation if permitted to exist shall constitute a separate offense. The imposition of any penalty for violation of this Section shall not prevent the enforced removal or correction of prohibited conditions.

**Subsection 340.08. Miscellaneous Building Regulations.**

**Subd. 1. Uniform Housing Code Adopted.** The Uniform Housing Code, 1976 Edition, published by the International Conference of Building Officials, is hereby adopted by reference as though set forth verbatim herein. Three copies of said Code shall be marked CITY OF MINNESOTA LAKE - OFFICIAL COPY and kept on file in the office of the City Clerk and open to inspection and use by the public.

**Subd. 2. Toilet Installation Required.** It is the duty of every owner or occupant of any property within the City, having a dwelling house or business building situated thereon, which property abuts a street in which there is installed City water and sewer mains, to install a toilet in such dwelling or business building and make connection thereof with such water and sewer mains. When a toilet connected with the City water and sewer system has been installed in any residence or business building on any parcel of land, any outside toilet, cesspool or septic tank on that parcel is declared a nuisance and shall be filled or removed by the owner within ten (10) days after the connection to the water and sewer system has been made. Whenever the non-compliance of the owner or occupant of such property is reported to the City, the police department shall forthwith make such investigation as is necessary and proper and report the findings to the Council. If the Council finds that the lack of toilet facilities is an unhealthful and unsanitary condition, the City Clerk shall serve written notice upon said owner or occupant requiring the installation of toilet facilities upon the premises described in said notice, and connection thereof with the sewer and water mains, all of which shall be done within thirty (30) days after service of such written notice. Whenever any owner or occupant shall default in compliance with such written notice the Council may by resolution direct that a toilet be installed and connection made with the sewer and water mains and that the actual cost of such installation be paid in the first instance out of the General Revenue Fund, and assessed against the property so benefitted. After such installation and connection is completed by order of the Council, the City shall serve a written notice of intention to make an assessment therefor. If such assessment is not paid within ten (10) days the City shall certify the amount thereof to the County Auditor in the same manner as with other special assessments, provided that the Council may by resolution provide that the assessment be spread over a term of three (3) years upon written request by the owner of the property.

**Subd. 3. Water Meters Required.** In all new construction using one-inch size water meter, or smaller water meters shall be installed at the expense of the owner.

**Subd. 4. Open Pits, Basements and Other Excavations.** It is unlawful for any

person owning or in control of real estate to have any pit, basement, well, septic tank, cesspool or other excavation on said premises open and without protection for the public.

**Subd. 5. Mobile Home Foundation Requirements.** All mobile homes located within the City of Minnesota Lake that are not located in an area zoned as a mobile home park shall be placed on foundations consisting of continuous solid walls which extend below the frost line.

## **SECTION 350. FIRE REGULATIONS.**

**Subsection 350.01. Adoption of the Minnesota Uniform Fire Code.** The Minnesota Uniform Fire Code is hereby adopted as though set forth verbatim herein. Three copies of said Fire Code shall be marked CITY OF MINNESOTA LAKE - OFFICIAL COPY and kept on file in the office of the City Clerk and open for inspection and use by the public.

**Subsection 350.02. Fire Zones Established.** Fire Zones One, Two and Three are hereby established and shall encompass the parts of the City under those respective designations, as follows:

**Subd. 1. Fire Zone One.** Fire Zone One shall consist of all areas designated Commercial in any zoning provision now or hereafter established.

**Subd. 2. Fire Zone Two.** Fire Zone Two shall consist of all areas designated as Industrial or Limited Industrial in any zoning provision now or hereafter established.

**Subd. 3. Fire Zone Three.** Fire Zone Three shall consist of all areas not described in the foregoing Subdivisions 1 and 2.

### **Subsection 350.03. Fire Key Lock Box System Required.**

**Subd. 1. Where Required.** The following structures shall be equipped with a key lock box at or near the main entrance or such other location required by the Fire Chief:

- A. Commercial or industrial structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency;
- B. Multi-family residential structures that have restricted access through locked doors and have a common corridor for access to the living units;
- C. Governmental structures and nursing care facilities.

**Subd. 2. New Structures.** All newly constructed structures subject to this Subsection shall have the key lock box installed and operational prior to the issuance of an occupancy permit.

**Subd. 3. Type and Location.** The Fire Chief or authorized representative shall designate the type and location of the key lock box system to be implemented within the City and shall have the authority to require all structures to use the designate system.

**Subd. 4. Access.** The owner or operator of a structure required to have a key lock box shall, at all times, keep a key in the lock box that will allow for access to the structure. The Fire Chief shall be authorized to implement rules and regulations for the use of the lock box systems.

**Subd. 5. Penalty.** Any person who owns or operates a structure subject to this Subsection and fails to install and maintain a fire key lock box system shall be guilty of a misdemeanor.

#### **Subsection 350.04. Residence and Business Address Numbering**

**Subd. 1. Intent and Purpose.** The purpose of this section is to provide for the uniform displaying of addresses for residence and businesses within the City of Minnesota Lake. The goal is to enable emergency vehicles, utility trucks, and postal and delivery trucks to easily find the correct address while providing services.

**Subd. 2. Applicability.** It is a violation of the City Code for any person or business to fail to display the public the address of their occupied premises as required in this Section. Violations of this Section are unlawful and punishable as misdemeanors.

**Subd. 3. Compliance.** Residence and Business addresses shall be displayed in a manner viewable from a distance of 150 feet or more. Each address shall be posted next to a doorway or garage entrance to the structure and viewable from the street. Addresses shall be displayed numerically in numbers at least 4" in height and be of a contrasting color with the background they are attached to.

## CHAPTER 4.

### WATER AND SEWER SYSTEM REGULATIONS

#### SECTION 400. GENERAL PROVISIONS.

**Subsection 400.01. Water and Sewer Department.** There is hereby established a water department and a sewer department, which shall be under the supervision of the public works director. These departments shall be responsible for the management, maintenance, care, and operation of the water works and sanitary and storm sewer systems of the City.

**Subsection 400.02. Use of Water or Sewer System Restricted.** No person shall make or use any water or sewer service installation connected to the city water or sewer system except pursuant to application and permit as provided in this Chapter. No person shall make or use any such installation contrary to the regulatory provisions of this Chapter.

#### **Subsection 400.03. Application for Service.**

**Subd. 1. Procedure.** Application for a water or sewer service installation or for water service shall be made to the city clerk on forms prescribed by the council and furnished by the city. By his/her signature, the applicant shall agree to conform to this Chapter and to rules and regulations that may be established by the city as conditions for the use of water.

**Subd. 2. Fees or Deposit.** Application for a service installation shall be made by the owner of the property to be served or by his/her agent. At the time of making application the applicant shall pay to the City the amount of the fees or deposit required for the installation of the service connection as provided in this Chapter. When a water service connection has been installed application for water service may be made either by the owner or his/her agent or by the tenant or occupant of the premises.

#### **Subsection 400.04. Charges for Service Connections.**

**Subd. 1. Permit and Fee.** No connection shall be made to the city water or sanitary sewer system without a permit received from the clerk.

**Subd. 2. Access and Inspection Fees.** When the applicant requests a connection with either a water or sanitary sewer main, or both, the applicant shall pay to the City an inspection fee as stated in the City's fee schedule. In addition to the inspection fee, when the applicant requests a connection with the sanitary sewer, the applicant shall pay an access charge or "lagoon fee" as stated in the City's fee schedule per residential or commercial unit to be served by the sanitary sewer connection. The applicant shall also pay for the cost of making the necessary connections, taps, and installations of pipes and appurtenances to provide service to the property and the necessary street repairs.

**Subd. 3. Certification.** No permit shall be issued to connect with any water or sanitary sewer main unless the clerk certifies to the truth of one of the following or the payment required under Subdivision 4 is made:

1. That the lot or tract to be served has been assessed for the cost of construction of the main with which the connection is made or that proceedings for levying such assessment have been or will be commenced in due course; or
2. That the cost of construction of the main has been paid by the developer or builder platting the lot or tract; or
3. That, if neither of the foregoing is true, a sum equal to the portion of the cost of constructing the main which would be assessable against the lot or parcel has been paid to the City.

**Subd. 4. Additional Connection Fee.** If no such certificate can be issued, the applicant shall pay an additional connection fee equal to the portion of the cost of construction of the main attributable to the property upon the same basis as any assessment previously levied against other property for the main. The determination shall be made by the Clerk. If no such assessment has been levied, the assessable cost shall be determined upon the basis of the uniform charge which may have been or will be charged for similar connection with the main. The amount shall be determined on the basis of the total assessable cost of the main allocated on the basis of frontage.

**Subd. 5. Notice and Hearing.** Before the Clerk makes a final determination of the additional connection fee under Subdivision 4, the Clerk shall submit a written notice to the applicant stating the amount of the proposed connection fee and the basis of the calculation. The notice shall also state that the applicant may, within ten days of receipt of the notice, demand a hearing on the matter. If the applicant requests a hearing within that time, a hearing shall be held on the matter by the council at least one week after the date on which the request is made. If as a result of the hearing, the council finds that the proposed connection fee complies with the requirements of Subdivision 4, they shall so determine. If they determine that the proposed fee is in excess of the amount that would have been assessed had the property been assessed for the main or in excess of the increase in market value attributable to construction of the main, they shall make a determination of the proper amount of the fee within the limits specified in Subdivision 4. No connection shall be made without payment of the connection fee determined after the hearing or determined after the expiration of ten days from receipt of the notice when there has been no request within that time for a hearing.

#### **Subsection 400.05. Accounting, Billing, and Collecting.**

**Subd. 1. Accounts in Name of Owner.** All accounts shall be carried in the name of the owner. The owner shall be liable for water supplied to his/her property, whether he/she is occupying the property or not, and any charges unpaid shall be a lien upon the property.

**Subd. 2. Bills for Service.** Water and sewer service charges shall be billed together. Bills shall be mailed to the customers monthly, and semi-annual statements shall specify the water consumed in excess of water usage limits adopted by the council, and the sewer and water charges, in accordance with the rates adopted by the council.

**Subd. 3. Delinquent Accounts.** All charges for water and sewer service shall be due on the monthly due date specified by the city for the respective account and shall be delinquent fifteen (15) days thereafter. The city shall endeavor to collect delinquent accounts promptly. In any case where satisfactory arrangements for payment have not been made, the public works director may, after the procedural requirements of Subdivision 4 have been complied with, discontinue service to the delinquent customer by shutting off the water at the stop box. When water service to any premises has been discontinued, service shall not be restored except upon the payment of all delinquent bills and a fee as stated in the City's fee schedule. Delinquent accounts shall be certified to the city clerk who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served. The assessment roll shall be delivered to the council for adoption on or before October 1 of each year for certification to the county auditor for collection along with taxes. Such action is optional and may be subsequent to taking legal action to collect delinquent accounts.

**Subd. 4. Procedure for Shutoff of Service.** Water shall not be shut off under Subdivision 3 or for a violation of rules and regulations affecting utility service until notice and an opportunity for a hearing have first been given the owner of the premises involved. The notice shall be personally served or shall be mailed by certified or registered mail to the owner of the premises and shall state that if payment is not made before a day stated in the notice but not less than ten (10) days after the date on which the notice is given, the water supply to the premises will be shut off. The notice shall also state that the owner may, before such date, demand a hearing on the matter, in which case the supply will not be cut off until after the hearing is held. If the owner requests a hearing before the date specified, a hearing shall be held on the matter by the City Council at least one week after the date on which the request is made. If, as a result of the hearing, the council finds that the amount claimed to be owing is actually due and unpaid and that there is no legal reason why the water supply of the delinquent customer may not be shut off in accordance with this chapter, the City may shut off the supply.

#### **Subsection 400.06. Protection of Public and City.**

**Subd. 1. Permit and Bond.** A permit for construction and connection of the extension between a building drain and the sewer main or stub, herein called the building sewer, or between the building water service pipes and a water main or stub shall be issued only upon application by a plumber or contractor who has furnished a bond either to the clerk or the secretary of state under Minnesota Statutes 326.40. The bond shall be in the amount of \$2,000 conditioned so as to secure compliance by the principal with the provisions of this Chapter and to further secure performance by him/her of all work undertaken within the City.

**Subd. 2. Liability Insurance.** Before undertaking the construction work authorized

by the permit, the plumber or contractor shall secure and maintain a policy of insurance against damages to property or injury or death to persons. The policy shall indemnify and save harmless the city and its personnel against any claim, damages, or cause of action arising out of the work and from any expenses of defending the same. The property damage insurance coverage shall be in the amount of at least \$100,000 and the public liability damage for injury or death shall be in the amount of at least \$100,000 per claimant and \$300,000 for any number of claims per occurrence. Proof of such insurance shall be filed with the city prior to construction work and such policy shall provide that the city shall be notified immediately of any termination or modification of such insurance. If the insurance coverage is inadequate in amount, the plumber or contractor shall indemnify and save harmless the city and its personnel in like manner.

**Subd. 3. Apportionment of Costs.** The owner shall bear the costs and expenses incident to the installation and connection of the building sewer or extension of water service to private property. He/she shall indemnify the City for any loss or damage directly or indirectly cause by its installation and connection, To the extent he/she deems necessary, the Clerk shall establish rules and regulations for the proper implementation of these requirements which, when approved by the council by resolution, shall govern the installation and connection of building sewers and extension of water service to private property.

## **SECTION 410. WATER SYSTEM.**

### **Subsection 410.01. General Water Regulations.**

**Subd. 1. Discontinuance of Service.** The city may discontinue service to any water consumer without notice for necessary repairs or, upon notice as provided in section 400.05, Subdivision 4, for nonpayment of charges, or for violation of rules and regulations affecting utility service.

**Subd. 2. Supply From One Service.** No more than one house or building shall be supplied from one service connection except by special permission of the council. 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 stop box and a separate meter.

**Subd. 3. Turning On Water, Tapping 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 cock or other appurtenance therein without a city permit.

**Subd. 4. Repair of Leaks.** The consumer or owner shall be responsible for maintaining the service pipe from the utility main into the building served. If he/she fails to repair any leak in such service pipe within 24 hours after notice by the city, the city may turn the water off. The water shall not then be turned on again until the leak has been repaired and the sum stated in the city's fee schedule has been paid to the city. When the waste of water is great or damage is likely to result from the leak, the city shall turn the water off immediately upon the giving of notice if repair is not commenced immediately. If the consumer or owner does not immediately commence

to repair the leak, the city may repair the leak and the cost will be paid by the owner in accordance with the applicable provisions of this code.

**Subd. 5. Use of Fire Hydrants.** No person other than an authorized city employee shall operate a fire hydrant or interfere in any way with the city water system without first obtaining authority to do so from the city official.

**Subd. 6. Private Water Supply.** 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. When any such connection is found, the clerk shall notify the owner to sever the connection and if this is not done immediately, the city shall turn off the water supply forthwith. Before any new connection to the city system is permitted, the department shall ascertain that no cross connection will exist when the new connection is made.

**Subd. 7. Restricted Hours.** Whenever the council determines that a shortage of water threatens the city, it may, by resolution, limit the times and hours during which city water may be used for sprinkling, irrigation, car washing, air conditioning, or other specified uses. After publication of the resolution or two days after the mailing of the resolution to each customer, no person shall use or permit water to be used in violation of the resolution and any customer who does so shall be charged a civil penalty as stated in the city's fee schedule for each day violation and the charge shall be added to his/her next water bill. If the emergency requires immediate compliance with terms of the resolution, the council may provide for the delivery of a copy of the resolution to the premises of each customer, and any customer who has received such notice and thereafter uses or permits water to be used in violation of the resolution shall be subject to the charge provided above. Continued violation shall be cause for discontinuance of water service.

**Subd. 8. Permitting Use by Others.** No person shall permit city water to be used for any purpose except upon his own premises except in an emergency and then only if written permission is first obtained from the clerk. Anyone wishing to obtain water from a hydrant for construction purposes shall make application to the clerk for such services.

**Subd. 9. Reconnect Fee.** If service is discontinued at the request of the owner or consumer, there shall be a fee as stated in the city's fee schedule for reconnecting the service.

#### **Subsection 410.02. Meters.**

**Subd. 1. Meters Required.** Except for the extinguishment of fires, no person other than an authorized city employee shall use water from the city water supply system or permit water to be drawn therefrom unless the water passes through a meter approved by the city. No person not authorized by the clerk shall connect, disconnect, take apart, or in any manner change or interfere with any such meter or its use. The first meter shall be supplied by the city. The cost of installing the meter will be paid by the customer.

**Subd. 2. Maintenance.** The customer shall be responsible for the maintenance and

repair of any meter that has become unserviceable and shall replace it if necessary. Actual repair of the meter shall be performed by employees of the city. The cost of the repair shall be paid for by the customer.

**Subd. 3. Complaints; Meter Testing.** When a consumer complains that the bill for any past service period is excessive, the city shall have the meter reread on request. If the consumer remains dissatisfied, he may, on written request and the deposit of \$25.00 have the meter tested. If the test shows an error in the city's favor exceeding five percent of the water consumed, the deposit shall be refunded, and the bill shall be adjusted accordingly. Such adjustment shall not extend back more than one service period from the date of the written request.

**Subd. 4. Meter Reading and Inspection.** Authorized meter readers shall have free access at reasonable hours of the day to all parts of every building and premises connected with the city water supply system in order to read meters and make inspections.

**Subd. 5. New Meters.** If a property owner requests a new water meter due to an upgrade made to his/her property or because the current meter has been damaged by an act of the property owner and cannot be repaired, then the property owner shall be solely responsible for the full cost of a new meter and installation of the new meter. If a new meter is necessary due to an act of a city employee, then the City shall be responsible for the full cost of a new meter and its installation.

**Subd. 6. Meter Tampering Prohibited.** It shall be unlawful for any person to use water from any premises without the consent of the owner, or to use water from the City water system except as may be drawn through a meter installed by the City. It shall also be unlawful for any person except an authorized representative of the City of Minnesota Lake to turn on or off or tamper with any curb cock or water meter. The penalty for a violation of this subsection is a misdemeanor.

### **Subsection 410.03. Plumbing Regulations.**

**Subd. 1. Service Pipes.** Every service pipe shall be laid with sufficient bend to allow not less than one foot of extra length and in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than six feet below the surface and be so arranged as to prevent rupture by freezing. A shut-off or other stop cock with waste valve of the size and strength required shall be placed close to the inside wall of the building and be well protected from freezing. Piping in compliance with Minnesota statutes, rules and regulations shall be used for all services of two inches or less. Joints on copper tubing shall be as few as possible and not more than one joint shall be used for a service up to 70 feet in length. Each joint shall be left uncovered until inspected by the city. Every service over two inches shall be cast iron. Connections with the mains for domestic supply shall be at least 3/4 of an inch.

**Subd. 2. Water Meter Settings.** Every water meter shall be installed in accordance with the following provisions:

1. The service pipe from the water main to the meter shall be brought through the floor in a vertical position where the pipe enters the building. The stop and waste valve shall be 12 inches above the floor.
2. The bottom of the meter shall be between 6 and 12 inches above the finished floor line. The meter shall be set not more than 12 inches horizontally from the inside line of the basement wall unless a different position is approved by the clerk. A suitable bracket shall be provided to support the meter in a proper vertical position and prevent noise from vibration.
3. Each meter installation shall have a stop and waste valve on the street side of the meter. In no case shall more than 12 inches of pipe be exposed between the point of entrance through the basement floor and the stop and waste valve. A stop and waste valve shall also be installed on the house side of the meter.
4. The water pipe connecting with the main shall not exceed two feet under the basement floor from the inside of the basement wall to the water meter connection.
5. Meter setting devices for 5/8-inch, 3/4-inch, and one-inch meters shall be of copper pipe or tubing from the terminus of the service pipe up to and including the stop and waste valve on the building side.

**Subd. 3. Location of Stop Boxes.** Curb stop boxes shall be installed generally where desired by the owners of occupied properties, but they shall be placed as near as possible to the curb if on a street or within one foot of the alley line if the main is located in the alley. They shall be installed at an approximate depth of six feet below the established grade and shall be left in an accurate vertical position when back-filling is completed.

**Subsection 410.04. Water Rates.** A schedule of rates shall be periodically adopted by the council. The schedule of rates shall be on file with the clerk.

## **SECTION 420. SANITARY SEWER SYSTEM.**

**Subsection 420.01. Requirements for Building Sewer and Inspection.** Building sewer construction shall meet the requirements of the Minnesota Plumbing Code. The applicant for a building sewer permit shall notify the public works director when the building sewer and connection are ready for inspection. The connection shall be made under the supervision of the public works director or representative. No backfill shall be placed until the work has been inspected and approved.

### **Subsection 420.02. Sewer System General Regulations.**

**Subd. 1. Discharge of Surface Water, Etc.** No person shall discharge or cause to

be discharged any storm water, surface water, ground water, cooling water, or unpolluted industrial process waters into any sanitary sewer. No rain spout or other form of surface drainage and no foundation drainage shall be connected with any sanitary sewer.

**Subd. 2. Unacceptable Wastes.** No person shall discharge or permit to be discharged into any public sewer any of the following wastes:

1. Any liquid or vapor having a temperature in excess of 150 degrees Fahrenheit;
2. Any water or waste having a five-day biological oxygen demand exceeding 1,000 parts per million by weight as averaged during any 12-month period;
3. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
4. Any garbage that has not been properly shredded;
5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure, grit, brick, cement, onyx, carbide, or other matter that may interfere with the proper operation of the sewers or sewage treatment plant;
6. Any water or waste having a pH lower than 5 ½ or higher than 9 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewage works;
7. Any water or waste containing a toxic or poisonous substance in sufficient quantities to constitute a hazard to humans or animals, injure or interfere with sewage treatment, or create any hazard in the receiving waters of the sewage treatment plant;
8. Any noxious or malodorous gas or substance capable of creating a public nuisance.

**Subd. 3. Interceptors.** Grease, oil, and sand interceptors shall be provided when they are necessary for the proper handling of any liquid waste containing grease in excessive amounts or any flammable waste, sand or other harmful ingredients; but such interceptors shall not be required for private living quarters or dwelling units. Interceptors shall be located so as to be easily accessible for cleaning and inspection.

**Subd. 4. Control Manhole Required.** The owner of any property served by a building sewer carrying industrial waste shall install a suitable control manhole in the building sewer to facilitate observation and sampling of the waste. The manhole shall be constructed by the owner in accordance with plans approved by the city engineer. The owner shall maintain the manhole so as to be safe and accessible at all times.

### **Subdivision 420.03. Sewer Connection Required.**

**Subd. 1. General Requirements.** When property abuts upon any public street or alley along which water and sewer mains have been constructed, the owner of any dwelling or commercial establishment on the property shall install suitable toilet facilities therein and connect them with the sanitary sewer in accordance with the provisions of this ordinance within 90 days after the date of mailing or delivering official notice to do so. The notice shall be given to the owner or occupant in writing by the city clerk on order of the council.

**Subd. 2. Connection by City.** Whenever any owner or occupant fails to comply with such written notice, the council shall by resolution direct that a toilet be installed and connection made with the sewer system and that the cost of the installation be paid in the first instance out of the appropriate fund and then assessed against the property benefitted.

**Subd. 3. Assessment.** After the installation and connection have been completed pursuant to council resolution, the clerk shall serve a written notice of the assessment upon the owner or his representative directing him to pay the assessment to the treasurer within ten (10) days after the service of the notice. If the assessment is not paid within ten (10) days, the clerk shall certify the amount to the county auditor for collection in the same manner as other special assessments. The council may by resolution spread the assessment over a three-year period.

### **Subdivision 420.04. Sewer Rates.**

**Subd. 1. General Rates for Sewer Service.** Each user of sewer service shall pay a monthly fee pursuant to a schedule of rates adopted by the Council. The schedule of rates shall be filed with the clerk.

**Subd. 2. Special Cases.** In the case of a user contributing wastes to the sewage disposal system in disproportionate amounts or concentrations, the clerk or designated agent shall make an individual study of the particular use and fix an individual charge that is commensurate with the burden placed by the wastes upon the sewage treatment plant. If a building served by sewer is not served by city water and the council determines that the sewer service charge inaccurately measures use of the sewer system, it may order the installation of a water meter to measure accurately the amount of water used on the premises. In the case of an industry using substantial amounts of water that is not discharged into the sewer system, the council may order installation of a meter accurately measuring the amount of water that enters the sewer system, and fix the sewer service charge on the basis of such amount. Insofar as practicable, installation and maintenance of such meters shall conform to the regulations contained in this code.

**Subd. 3. Required Information.** The owner, occupant, or person in charge of any premises shall supply the city with such information as it may reasonably require relating to use of water, use of sewer, or sewer rates. Willful failure to provide such information, willful falsification of such information, or willful failure to comply with any requirement or order issued pursuant to this section constitutes a violation of this section.

**Subd. 4. Disposition of Revenues.** All revenues derived from charges imposed under this section shall be credited to the water fund and sewer fund.

## CHAPTER 5.

### LIQUOR AND BEER REGULATIONS

#### SECTION 500. Intoxicating Liquor Licensing.

**Subsection 500.01. Provisions of State Law Adopted.** The provisions of Minnesota Statutes, Chapter 340A, relating to the all matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor or beer are adopted and made a part of this chapter as if set out in full.

#### **Subsection 500.02. License Required.**

**Subd. 1. General Requirement.** No person, except a wholesaler or manufacturer to the extent authorized under state law, shall directly or indirectly deal in, sell, or keep for sale any intoxicating liquor or beer in the city without a license to do so as provided in this chapter.

**Subd. 2. On-Sale Liquor Licenses.** "On-sale" intoxicating liquor licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes Section 340A.101, having facilities for seating not fewer than thirty (30) guests at one time. Prior to the renewal of any license issued pursuant to this section, the licensee shall provide to the Council proof that the serving of food constitutes the principal part of the business of the licensee during the twelve-month period preceding the date the license is to be renewed.

**Subd. 3. On-Sale Sunday Liquor.** If so approved by the electorate of the city of Minnesota Lake, "On-Sale" Sunday intoxicating liquor licenses shall be issued only to hotels, restaurants or clubs, as defined in Minnesota Statutes, Chapter 340A.101, and which have facilities for serving not less than thirty (30) guests at one time. An On-Sale Sunday liquor licensee may serve intoxicating liquor between the hours of 12:00 noon and 12:00 midnight on Sunday, in conjunction with the serving of food.

**Subd. 4. On-Sale Wine Licenses.** "On-sale" wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes Section 340A.101, and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.

**Subd. 5. Special Club Licenses.** Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for ten (10) years.

#### **Subdivision 500.03. Application for License.**

**Subd. 1. Form.** Every application for a license to sell liquor shall state the name of the applicant; his or her age; representations as to his or her character with such references as the

council may require; his or her citizenship; the type of license applied for; the business in connection with which the proposed license will operate and its location; whether the applicant is owner and operator of the business; how long he or she has been in that business at that place; and such other information as the council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the commissioner of public safety and shall be verified and filed with the city clerk. No person shall make a false statement in an application.

**Subd. 2. Bond.** Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States Government bonds of equivalent market value as provided in Minnesota Statutes, Section 340A.409.

**Subd. 3. Liability Insurance.** Prior to the issuance of a liquor license, the applicant shall file with the city clerk a liability insurance policy in the amount of \$50,000 coverage for one person and \$100,000 coverage for more than one person and shall comply with the provisions of Minnesota Statutes, Section 340A.409 relating to liability insurance policies. If a liability insurance policy is made subject to all the conditions of a bond under that statute, the policy may be accepted by the council in lieu of any bond that may be required.

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

**Subd. 4. Approval of Security.** The security offered under Subdivisions 2 and 3 must be approved by the city council. Surety bonds and liability insurance policies shall be approved as to form by the city insurance consultant. Operation of a licensed business without having effective security as required in Subdivisions 2 and 3 on file with the city at all times is a cause for revocation of the license.

#### **Subsection 500.04. License Fees.**

##### **Subd. 1. Fees.**

- A. On-Sale. The annual on-sale intoxicating liquor license fee shall be the amount set forth in the City fee schedule for such a license as adopted by resolution of the City Council on an annual basis.
- B. Off-Sale. The annual off-sale intoxicating liquor license fee is the amount set

forth in the City's fee schedule for such a license as adopted by the City Council by resolution on an annual basis.

- C. On-Sale Sunday. The annual on-sale Sunday intoxicating liquor license fee is the amount set forth in the City's fee schedule for such a license as adopted by the City Council by resolution on an annual basis.
- D. On-Sale Wine. The annual on-sale wine license fee is the amount set forth in the City's fee schedule for such a license as adopted by the City Council by resolution on an annual basis.
- E. On-Sale Club License. The annual on-sale club intoxicating liquor license fee is the amount set forth in the City's fee schedule for such a license as adopted by the City Council by resolution on an annual basis.
- F. Temporary Beer Garden License. The license fee for a Temporary Beer Garden license is the amount set forth in the City's fee schedule for such a license as adopted by the City Council by resolution on an annual basis.

**Subd. 2. Payment.** Each application for a license shall be accompanied by a receipt from the city clerk for payment in full of the license fee and the fixed investigation fee required under Subsection 500.05, Subd 1 and 2, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the city clerk shall refund the amount paid as the license fee.

**Subd. 3. Term, Pro Rata Fee.** Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of April.

#### **Subsection 500.05. Granting of Licenses.**

**Subd. 1. Preliminary Investigation.** The application in each case shall be made on a form prescribed by the council. If the council deems it in the public interest to have an investigation made on a particular application it may so determine. If the council determines that a comprehensive background and investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of criminal investigation for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest.

**Subd. 2. Issuance.** The city council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. After the hearing, the council shall, in its discretion, grant or refuse the application.

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

**Subsection 500.06. Persons Ineligible for License.** No license shall be issued to any person made ineligible for such license by the laws of the State of Minnesota.

**Subsection 500.07. Places Ineligible for License.**

**Subd. 1. General Prohibition.** No license shall be issued for any place or any business ineligible for such a license under state law.

**Subd. 2. Delinquent Taxes and Charges.** No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

**Subd. 3. Distance From School or Church.** No license shall be granted within 100 feet of any school or within 100 feet of any church. In applying this restriction the distance shall be measured between the main front entrances of the two buildings following the route of ordinary pedestrian travel.

**Subsection 500.08. Conditions of License.**

**Subd. 1. In General.** Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.

**Subd. 2. Licensee's Responsibility.** Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

**Subd. 3. Inspections.** Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

**Subd. 4. Federal Stamps.** No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

**Subsection 500.09. Restrictions on Purchase and Consumption.**

**Subd. 1. Liquor in Unlicensed Places.** No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor "on-sale" or a permit from the commissioner of public safety and no person shall consume liquor in any such place.

**Subd. 2. Consumption in Public Places.** No person shall consume liquor on a public highway, public park, or other public place, however, liquor may be consumed in public parks, provided that permission to consume liquor in the public parks has been previously granted by the council. Sub. 3. Hours of Liquor Sales.

- A. Sunday; Election. No sale of intoxicating liquor shall be made after 1:00 a.m. on Sunday, nor until 8:00 a.m. on Monday, nor between the hours of 1:00 a.m. and 8:00 a.m. on the day of any statewide election.
- B. On-Sale. No on-sale of intoxicating liquor shall be made before 8:00 a.m. nor after 1:00 a.m. any Monday through Saturday inclusive.
- C. Off-Sale. No off-sale intoxicating liquor shall be made before 8:00 a.m. or after 10:00 p.m. any Monday through Saturday inclusive.

**Subsection 500.10. Suspension and Revocation.** The council may either suspend, not to exceed 60 days, or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Sections 15.0418 to 15.0426.

## **SECTION 510. RESERVED FOR FUTURE USE.**

## **SECTION 520. BEER LICENSING.**

### **Subsection 520.01. Definition of Terms.**

**Subd. 1. Beer.** As used in this ordinance, "beer" or "non-intoxicating malt liquor" means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths percent by weight.

**Subd. 2. Beer Store.** "Beer store" means an establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

### **Subsection 520.02. License Required.**

**Subd. 1. Licenses.** No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the city without first having received a license as hereinafter provided. Licenses shall

be of three kinds: (1) regular “on-sale” (2) temporary “on-sale” or (3) “off-sale.”

**Subd. 2. Regular On-Sale.** Regular “on-sale” licenses shall be granted only to bona fide clubs, beer stores, restaurants and hotels where food is prepared and served for consumption on the premises. “On-sale” licenses shall permit the sale of beer for consumption on the premises only.

**Subd. 3. Temporary On-Sale.** Temporary “on-sale” licenses shall be granted only to bona fide clubs and charitable, religious, and non-profit organizations for the sale of beer for consumption on the premises only.

**Subd. 4. Off-Sale.** “Off-sale” licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

**Subd. 5. On-Sale Wine Licenses.** “On-Sale” wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes Section 340A.101, and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.

**Subd. 6. Special Club Licenses.** Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for ten (10) years.

**Subd. 7. Temporary Beer Garden Licensing.** Licensure of a person to sell intoxicating liquor within the confines of structures located upon licensed premises shall enable such person to apply for a temporary license to sell intoxicating malt beverages upon the same licensed premises within areas immediately adjacent to, although not within the confines of the structure located on the licensed premises.

**Subd. 8. Revocation.** The revocation, suspension, nonrenewal or the action taken by the City with respect to an intoxicating liquor license shall be automatically deemed taken to the Beer Garden license issued to pursuant to this Subdivision.

**Subd. 9. Conduct.** In the conduct of the premises, the regulations governing the sale of intoxicating liquor shall control all sales activities with respect to intoxicating malt beverages.

**Subsection 520.03. License Applications.** Every application for a license to sell beer shall be made to the city clerk on a form supplied by the city and containing such information as the clerk of the city council may require. It shall be unlawful to make any false statement in an application.

**Subsection 520.04. License Fees.**

**Subd. 1. Payment Required.** Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the required fee for the license. All fees

shall be paid into the general fund of the city. Upon rejection of any application for a license, the treasurer shall refund the amount paid.

**Subd. 2. Expiration; Pro Rata Fees.** Every license except a temporary license shall expire on the last day of December in each year. Each license except a temporary license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held and such period shall be stated on the license.

**Subd. 3. Fees.** The annual fees for a regular “on-sale” license, “off-sale” license or temporary “on-sale” license shall be the amount set forth in the City’s fee schedule as set by resolution of the City Council on an annual basis.

**Subd. 4. Refunds.** No part of the fee paid for any license issued under this ordinance shall be refunded except in the following instances upon application to the council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- (1) destruction or damage of the licensed premises by fire or other catastrophe;
- (2) the licensee's illness;
- (3) the licensee's death;
- (4) a change in the legal status of the municipality making it unlawful for the licensed business to continue.

#### **Subsection 520.05. Granting of License.**

**Subd. 1. Investigation and Hearing.** The city council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.

**Subd. 2. Transfers.** Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the council.

#### **Subsection 520.06. Persons Ineligible for License.**

No license shall be granted to or held by any person who:

- (1) Is under the legal age;
- (2) Has, within five years prior to the application for such license, been convicted of a felony, or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors or beer and cannot show competent evidence under Minnesota Statutes, Section 364.03, of sufficient rehabilitation and present fitness to perform the duties of a beer licensee;
- (3) Is a manufacturer of beer or is interested in the control of any place where beer is manufactured;
- (4) Is an alien or a non-resident of the city;
- (5) Is not of good moral character;
- (6) Is, or during the period of this license becomes, the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place; or
- (7) Is not the proprietor of the establishment for which the license is issued.

**Subsection 520.07. Places Ineligible for License.**

**Subd. 1. Conviction or Revocation.** No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this ordinance, or of the state beer or liquor law, or where any license hereunder has been revoked for cause until one year has elapsed after such conviction or revocation.

**Subd. 2. Distance from Schools and Churches.** No license shall be granted for any place within 100 feet of any public school or within 100 feet of any church. In applying this restriction, the distance shall be measured between the main front entrances of the two buildings following the route of ordinary pedestrian travel.

**Subsection 520.08. Conditions of Lease.**

**Subd. 1. General Conditions.** Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the city or state law.

**Subd. 2. Insurance.** Compliance with financial responsibility requirements of state law and this ordinance is a continuing condition of any license granted pursuant to this ordinance.

**Subd. 3. Sales to Under Age or Intoxicated Persons.** No beer shall be sold or served to any intoxicated person or to any person under 21 years of age.

**Subd. 4. Consumption by Under Age Persons.** No person under 21 years of age shall be permitted to consume beer on the licensed premises unless accompanied by his parent or legal guardian.

**Subd. 5. Interest of Manufacturers or Wholesalers.** No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes. No retail licensee and manufacturer or wholesaler of beer shall be party to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

**Subd. 6. Liquor Dealers' Stamp.** No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under the laws of Minnesota to sell intoxicating liquors.

**Subd. 7. Sales of Intoxicating Liquor.** No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption or display permit shall sell or permit the consumption and display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this ordinance.

**Subd. 8. Searches and Seizures.** Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquor found on the licensed premises in violation of Subd. 7

**Subd. 9. Licensee Responsibility.** Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.

**Subsection 520.09. Closing Hours.** No sale of beer shall be made contrary to the provisions of Minnesota Statutes Section 340A.504.

**Subsection 520.10. Clubs.** No club shall sell beer except to members and to guests in the company of members.

**Subsection 520.11. Restrictions on Purchase and Consumption.**

**Subd. 1. Age Misrepresentation.** No minor shall misrepresent his or her age for the purpose of obtaining beer.

**Subd. 2. Inducing Purchase.** No person shall induce a minor to purchase or procure

beer.

**Subd. 3. Procurement.** No person other than the parent or legal guardian shall procure beer for any minor.

**Subd. 4. Possession.** No minor shall have beer in his or her possession with the intent to consume it at a place other than the household of his or her parent or guardian.

**Subd. 5. Consumption.** No minor shall consume beer unless in the company of his parent or guardian.

**Subd. 6. Liquor Consumption and Display.** No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who does not hold a consumption and display permit.

**Subsection 520.12. Suspension and Revocation.** The city council may either suspend for a period not to exceed 60 days or revoke any beer license upon a finding that the licensee or his/her agent has failed to comply with any applicable statute, regulation, or ordinance relating to beer. Except in the case of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at a place licensed to sell beer under this ordinance and except in cases of failure of financial responsibility, no suspension or revocation by the city council shall take effect until the licensee has been afforded notice and an opportunity for a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The city council may suspend any license pending a hearing on revocation or suspension.

The holding of a federal liquor dealer's special tax stamp without a license to sell intoxicating liquors or the lapse of required dram shop insurance or bond withdrawal of a required deposit of cash or securities shall effect an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. Receipt of a federal retail liquor dealer's special tax stamp without an intoxicating liquor license or notice of cancellation or lapse of a current liquor liability policy or bond or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of suspension under the paragraph may request a hearing thereon and if such a request is made in writing to the city clerk a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements and other requirements of this ordinance have again been met.

**Subsection 520.13. Penalty.** Any person violating any provision of this chapter is guilty of a misdemeanor.

## CHAPTER 6.

### MUNICIPAL REGULATION AND LICENSING

#### SECTION 600. GENERAL LICENSING AND PERMIT PROVISIONS.

##### Subsection 600.01. Licenses and Permits.

**Subd. 1. General Rule.** Except as otherwise provided in this code, all licenses and permits granted by the city shall be governed by the provisions of this chapter.

**Subd. 2. Act Prohibited.** No person shall conduct any activity or use any property for which a license or permit is required by law or this code without a currently valid license or permit for such activity or use.

**Subd. 3. Application.** Every application for a license shall be made to the clerk on a form provided by the clerk. It shall be accompanied by payment to the clerk of the prescribed fee. If, after investigation, the clerk is satisfied that all requirements of law and this code have been met, the clerk shall present the application to the council for action or, if the license or permit does not require council approval, the clerk shall issue the license or permit.

**Subd. 4. Insurance.** (a) When a licensee or permittee is required to have a policy of insurance in force, the policy shall be approved as to substance and form by the insurance consultant for the city. The policy shall provide that it is non-cancellable without a fifteen (15) day notice to the city, and the coverage shall be for the term of the license or permit. Satisfactory evidence of coverage by insurance shall be filed with the clerk before the license or permit is issued. Each license or permit shall terminate upon termination of the required insurance coverage. (b) Unless otherwise provided, a required policy of liability insurance shall provide for protection in at least the following amounts:

For injuries including death therefrom sustained by any one person, \$100,000.

For injuries including death resulting therefrom sustained by two or more persons as the result of any one occurrence, \$300,000.

For property damage, \$50,000.

##### Subsection 600.02. Fees.

**Subd. 1. Fees Established.** License fees are as set forth in the City license and permit fee schedule as adopted and amended from time to time by resolution of the City Council.

**Subd. 2. Prorated Fees.** License fees shall not be prorated unless otherwise specified

by this code or by law.

**Subd. 3. Refunds.** License fees shall not be refunded in whole or in part unless otherwise specified by this code or by law.

**Subsection 600.03. Duration of License.** Unless otherwise specified, a license shall be valid for a calendar year or the part of the year for which it is issued and shall expire on December 31.

**Subsection 600.04. Transfers.** No license issued under this code may be transferred to any other person. Where a license relates to specific premises, the license shall not be changed to another location without approval of the council or other licensing authority.

**Subsection 600.05. Inspection.**

**Subd. 1. Authorized Personnel.** Any city official or employee having a duty to perform with reference to a license under this code and any police officer may inspect and examine any licensee, his business, or premises to enforce compliance with applicable provisions of this code. Subject to the provisions of Subdivision 2, he may, at any reasonable time, enter any licensed premises or premises for which a license is required in order to enforce compliance with this code.

**Subd. 2. Search Warrants.** If the licensee objects to the inspection of his premises, the city official or employee charged with the duty of enforcing the provisions of this code shall procure a valid search warrant before conducting the inspection.

**Subsection 600.06. Duties of Licensee.**

**Subd. 1. Compliance Required.** Every licensee and permittee shall have the duties set forth in this section.

**Subd. 2. Inspection.** He shall permit, at reasonable times, inspections of his business and examination of his books and records by authorized officers or employees.

**Subd. 3. Compliance with Law.** He shall comply with laws, ordinances, and regulations applicable to the licensed business, activity, or property.

**Subd. 4. Display of License.** He shall display the license or other insignia given him as evidence of the license in a conspicuous place on the premises, vehicle, or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person whenever he is carrying on the licensed activity.

**Subd. 5. Unlawful Disposition.** The licensee shall not lend or give to any other person his license or license insignia.

**Subsection 600.07. Suspension or Revocation.**

The council may suspend for a period not exceeding 60 days or revoke any license or permit for violation of any provision of law, ordinance, or regulation applicable to the licensed or permitted activity or property. Except where mandatory revocation is provided by law without notice and hearing and except where suspension may be made without a hearing, the holder of the license or permit shall be granted a hearing upon at least ten (10) days notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

**SECTION 610. REFUSE COLLECTION AND DISPOSAL.**

**Subsection 610.01. Definitions.**

**Subd. 1. Words and Phrases.** For the purposes of this chapter, the following words and phrases have the meanings given them in this section.

**Subd. 2.** Garbage means organic waste resulting from the preparation of food and decayed and spoiled food from any source.

**Subd. 3.** Refuse includes garbage and rubbish.

**Subd. 4.** Rubbish means inorganic solid waste such as tin cans, glass, paper, ashes, sweepings, etc.

**Subsection 610.02. General Regulations.**

**Subd. 1. Unauthorized Accumulation.** Any unauthorized accumulation of refuse on any premises is a nuisance and prohibited.

**Subd. 2. Refuse in Streets, Etc.** No person shall place any refuse in any street, alley, or public place or upon any private property except in proper containers for collection. No person shall throw or deposit refuse in any stream or other body of water.

**Subd. 3. Scattering of Refuse.** No person shall deposit anywhere within the city any refuse in such manner that it may be carried or deposited by the elements upon any public or private premises within the city.

**Subd. 4. Burying of Refuse; Composting.** No person shall bury any refuse in the city except in an approved sanitary landfill, but leaves, grass clippings, and easily biodegradable, non-poisonous garbage may be composited on the premises where such refuse has been accumulated. Garbage may be composted only in a rodent-proof structure and in an otherwise sanitary manner and after the council gives its approval to such composting after it finds that the

composting will be done in accordance with these standards.

**Subsection 610.03. Disposal Required.** Every person shall, in a sanitary manner, dispose of refuse that may accumulate upon property owned or occupied by him.

**Subsection 610.04. Containers.**

**Subd. 1. General Requirements.** Every householder, occupant, or owner of any residence and any restaurant, industrial establishment, or commercial establishment shall provide one or more containers on the premises to receive and contain all refuse which may accumulate between collections. All normal accumulations of refuse shall be deposited in such containers.

**Subd. 2. Container Requirements.** The requirements for the containers shall be contained in resolutions adopted by the council.

**Subd. 3. Use of Containers.** Refuse shall be drained of liquid and household garbage shall be wrapped before being deposited in a container. Highly inflammable or explosive material shall not be placed in containers.

**Subsection 610.05. Collection.**

**Subd. 1. Establishment.** The council may by resolution establish itself as the sole authorized collector, and dispense with the licensed collector system provided herein.

**Subd. 2. License Required.** No person shall permit refuse to be picked up from his premises by an unlicensed collector.

**Subd. 3. Application.** Any person desiring a license shall make application to the city clerk on a form prescribed by the clerk. The application shall set forth (a) the name and address of the applicant; (b) a description of each piece of equipment proposed to be used in the collection; (c) the proposed charges to be made of those who use the service; (d) a description of the kind of service proposed to be rendered; (e) the place to which the refuse is to be hauled; and (f) the manner in which the refuse is to be disposed of.

**Subd. 4. Limitations.** Only one person shall be licensed for collection during the period of the license from premises within a specific geographic area defined by the council.

**Subd. 5. Insurance and Bond.** No license shall be issued until the applicant files with the clerk a current policy of public liability insurance covering all vehicles to be used by the applicant in the licensed business. The limits of coverage of such insurance are: (1) each person injured, at least \$300,000; (2) each accident, at least \$300,000; (3) property damage, at least \$10,000. Applicant shall file a certificate showing worker's compensation coverage with the clerk. Applicant shall also file a surety bond in the amount of \$100,000.00 with the clerk.

**Subd. 6. License Fees.** Licenses shall be issued for a period of one year. The license fee is as set forth in the City's fee schedule.

**Subd. 7. Rates and Charges.** No licensee shall charge any user of his/her refuse collection service more than the maximum amount fixed from time to time by resolution of the council.

**Subsection 610.06. Rates and Charges.**

**Subd. 1. System of Service Charges.** The council shall by resolution establish a system of service charges for refuse collection. In such resolution it shall fix the maximum charges, including any special charges for extra hauling or collecting from an excessive number of containers and classify users of the service according to the type of occupancy and number of collections per week.

**Subd. 2. Billing.** The service charge shall be made to the owner or occupant of each building or housing unit served. If the building is served by city water or sewer, the refuse collection charge shall be billed as a separate entry on the monthly water or sewer bill. If the premises are not so served, the refuse collection charge shall be separately billed by the city clerk.

**Subd. 3. Payment.** Service charges shall be payable at the same time as bills for water service and subject to the same conditions of payment. If any charge is unpaid on September 1 of any year, the council shall levy an assessment equal to the unpaid charge as of that date plus interest at a rate to be set by the council by resolution from that date and a penalty of ten (10) percent. The clerk shall certify the assessment to the county auditor for collection in the same manner as assessments for local improvements.

**Subsection 610.07. Refuse Collection Schedule.** Each licensee shall collect refuse from premises for which he has a collection contract in accordance with the following minimum schedule: twice a week from commercial accounts and once a week from residences. No refuse shall be collected before 7:00 a.m. or after 6:00 p.m. on any day.

**Subsection 610.08. Collection Vehicles.** Every refuse collection vehicle shall be lettered on the outside so as to identify the licensee (contractor). Every vehicle used for hauling garbage shall be covered, leak-proof, durable, and of easily cleanable construction. Every vehicle used for hauling refuse shall be sufficiently airtight and so used as to prevent unreasonable quantities of dust, paper, or other collected materials to escape. Every vehicle shall be kept clean to prevent nuisances, pollution, or insect-breeding, and shall be maintained in good repair.

**SECTION 620. DOGS AND CATS.**

**Subsection 620.01. Running at Large Prohibited.** No dog or cat shall be permitted to run at large within the limits of the city. This restriction does not prohibit the appearance of any dog or cat upon streets or public property when the dog or cat is on a leash and is kept under the control of

the person charged with its care.

### **Subsection 620.02. Licenses.**

**Subd. 1. License Required.** No person shall keep any dog over three months of age within the city without securing an annual license therefor from the clerk, who shall keep a record of all licenses issued and shall issue a metal tag for each license. A license shall be secured from the clerk within ten (10) days of obtaining a dog over three months of age, or within ten (10) days of the date when the dog becomes three months of age.

**Subd. 2. License Fees; Expiration.** The annual license fee shall be as set in the City fee schedule for each dog for the first license and as set in the City fee schedule for each subsequent license. Every license shall expire on the 30th day of June each year.

**Subd. 3. Rabies Vaccination.** Every application for a license shall be accompanied by a certificate from a qualified veterinarian showing that the dog has been vaccinated for rabies within two years prior to the expiration of the license applied for.

**Subd. 4. Affixing Tag.** The owner shall permanently affix the tag to the collar of the dog so licensed in such a manner that the tag may be easily seen. The owner shall see that the tag is constantly worn by the dog.

**Subsection 620.03. Nuisances.** The owner or custodian of any dog or cat shall prevent the dog or cat from committing any act in the city which constitutes a nuisance. It is a nuisance for any dog or cat to habitually or frequently bark or cry, to chase vehicles, to molest or annoy any person away from the property of his owner or custodian, or to damage, defile or destroy public or private property. Failure of the owner or custodian of a dog or cat to prevent the dog or cat from committing such a nuisance is a violation of this ordinance. Upon receipt of at least four (4) written complaints from citizens, or two (2) reports made by any police officer, relating to any of the prohibited activity, a dog or cat shall be presumed to habitually or frequently engage in prohibited activity.

**Subsection 620.04. Quarantine.** Any dog or cat which bites a person shall be quarantined for such time as may be directed by the city health officer. During quarantine the animal shall be securely confined and kept from contact with any other animal. At the discretion of the health officer the quarantine may be on the premises of the owner; however, if the health officer requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital.

### **620.05. Kennels.**

**Subd. 1. Definition** The keeping of three (3) or more dogs or three (3) or more cats on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel”; except that a fresh litter of pups or kittens may be kept for a period of three (3) months before such keeping shall be deemed to be a “kennel”.

**Subd. 2. Kennels Prohibited.** Because the keeping of three (3) or more dogs or three (3) or more cats on the same premises is subject to great abuse, causing discomfort to persons of the area, by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three (3) or more dogs or three (3) or more cats on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the City.

**Subsection 620.06. Impounding.**

**Subd. 1. Police to Impound.** Any dog found unlicensed or any dog or cat found running at large contrary to the provisions of this ordinance may be impounded by the pound master or any police officer, who shall give notice of the impounding to the owner of such dog or cat if known. If the owner is unknown, the officer shall post notice in three conspicuous places in the city stating that if the dog or cat is not claimed within 5 days of the posting of the notice it will be disposed of and the owner shall bear the cost of such disposal.

**Subd. 2. Redemption.** Any dog or cat may be redeemed from the pound by the owner within the time stated in the notice by the payment to the clerk of the following fees:

- a. An impounding fee as stated in the city's fee schedule;
- b. A boarding fee as stated in the city's fee schedule for each day that the animal is boarded;
- c. A license fee for the current year, if unpaid; and
- d. A fee as stated in the city's fee schedule if the dog does not have a current license.

**Subd. 3. Disposition of Unclaimed Dogs and Cats.** Any dog or cat which is not redeemed within the time specified in Subdivision 2 may be sold for not less than the amount provided in that subdivision to anyone desiring to purchase the dog or cat if it is not requested by a licensed educational or scientific institution under Minnesota Statutes, Section 35.71. All sums received in excess of the fees fixed by Subdivision 2 shall be paid to the owner if he makes a claim within one year of the sale and furnishes satisfactory proof of ownership. Any dog or cat which is not claimed by the owner or sold shall be painlessly killed and buried or turned over to the Mankato Area Humane Society.

**Subd. 4. Pound Master.** The pound master shall be appointed by the council. He shall maintain the city pound and perform other duties imposed on him by this part.

**Subsection 620.07. Penalty.** Any person violating the provisions of this Section shall be subject to an administrative penalty as specified in Section 160 of this code and/or be guilty of a petty misdemeanor.

## **SECTION 630. OTHER ANIMALS.**

**Subsection 630.01. General Prohibition.** No person shall keep any animal, except dogs, cats and household pets within the limits of the City; provided, however, that persons who own, occupy or control contiguous acreage of one acre or more and who reside North of Fifth Avenue, Northeasterly of Minnesota Highway 22, or South of Higbie Avenue may keep domesticated animals for household use on such premises owned, occupied or controlled by them. The prohibitions of this section shall not apply to any existing commercial hog or cattle purchasing operation within the limits of the City. A household pet includes any animal commonly accepted as a domesticated household animal, such as dogs, cats, caged birds, gerbils, hamsters, guinea pigs, rabbits (caged), fish, and non poisonous, non venomous or non constricting reptiles, amphibians or other similar animals.

**Subsection 630.02. Animals at Large.** Except as provided in Section 620.01, no person shall permit any animal of which he is the owner, caretaker, or custodian to be at large within the city. Any such animal is deemed to be at large when it is unfenced or off the premises owned or rented by the owner or his agent and not under his individual restraint.

**Subsection 630.03. Treatment.** No person shall treat any animal in a cruel or inhumane manner.

**Subsection 630.04. Diseased Animals.** Any animal with a contagious disease shall be so confined that it cannot come within 50 feet of any public roadway or any place where animals belonging to or harbored by another person are kept.

**Subsection 630.05. Manner of Keeping.** No person shall keep any dog, cat, or other animal in the city in an unsanitary place or condition or in a manner resulting in objectionable odors or in such a way as to constitute a nuisance or disturbance by reason of barking, howling, fighting, or other noise or in such a way as to permit the animal to annoy, injure, or endanger any person or property.

### **Subsection 630.06. Care of Premises.**

**Subd. 1. Clean Shelters.** Every structure and yard in which animals are kept shall be maintained in a clean and sanitary condition and free of all rodents, vermin, and objectionable odors. The interior walls, ceilings, floors, partitions and appurtenances of any such structure shall be whitewashed or painted as the health officer shall direct. Upon the complaint of any individual or otherwise, the health officer shall inspect such structure or yard and issue any such order as may be reasonably necessary to carry out the provisions of Part 4.

**Subd. 2. Manure.** Manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies, at least once per month from October 1 to May 1 each year and once every two weeks at other times. Unless used for fertilizer, manure shall be removed by hauling beyond the city limits. If used for fertilizer, manure shall be spread upon the

ground evenly and turned under at once or as soon as the frost leaves the ground.

**Subsection 630.07. Impounding.**

**Subd. 1. Who Impounds.** The poundmaster or any police officer may take up and impound in the city pound any animal or fowl found running at large or in violation of this chapter and shall provide proper sustenance for every animal impounded.

**Subd. 2. Notice.** Within 24 hours after any animal has been impounded, the pound master shall post notices in three conspicuous places in the city, describing the animal and stating that it has been impounded. He shall also make a reasonable attempt to give oral or written notice to the owner when known.

**Subd. 3. Release.** No animal impounded shall be released except to a person displaying a receipt from the clerk showing payment of the impounding fee or the sale price.

**Subd. 4. Fees.** The fee for impounding shall be \$20.00 for the first offense, \$35.00 for the second offense, and \$50.00 for each subsequent offense plus \$4.00 a day for feeding.

**Subd. 5. Sale.** If any impounded animal is not redeemed within five days, the pound master shall give an additional three-day posted notice, as provided in Subdivision 2, of the time and place when and where the animal shall be sold. If the poundmaster is unable to sell the animal on the day stated, he may sell the animal as soon thereafter as possible without further notice.

**Subd. 6. Proceeds of Sale.** The clerk shall turn over the proceeds of such sale to the treasurer. The treasurer shall pay the pound master the costs of impounding. The balance shall be paid, on order of the council, to the owner of the animal or fowl if claimed within one year from the date of sale; otherwise, it shall be forfeited to the city.

**Subd. 7. Illegal Release.** No unauthorized person shall break into the pound or release any animal legally placed therein.

**SECTION 640. RETAIL SALE OF TOBACCO PRODUCTS.**

**Subsection 640.01. License.**

**Subd. 1. License From City Required.** No person shall keep for retail sale, sell at retail or otherwise dispose of any tobacco product at any place in the City without first obtaining a license from the City. "Tobacco" is defined as and includes: 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 tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices.

**Subd. 2. License Fee.** The fee for every such license shall be the fee specified in the City's fee schedule as set periodically by resolution of the Council, subject to any limitations imposed by State law. Every license shall be valid beginning April 15th of the issuance year until April 14th of the following year.

**Subd. 3. License Shall be Displayed.** Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

**Subsection 640.02. Application and Issuance.** Application for the license shall be made to the City Clerk on a form supplied by the City. The application shall state all the information required by Section 300.02 and any other information as shall be required by the application form. Upon the filing of the application with the City Clerk, it shall be presented to the City Council for its consideration, and if granted by the Council, a license shall be issued by the City Clerk upon payment of the required fee.

**Subsection 640.03. Sales Prohibited to Minors.** No person shall sell or offer to sell any tobacco or tobacco product to any person under eighteen (18) years of age.

**Subsection 640.04. Transfers.** Licenses shall not be transferable from one person to another.

**Subsection 640.05. Restrictions.** No license shall be issued except to a person of good moral character. No license shall be issued to an applicant for sale of tobacco at a movable place of business; nor shall any license be issued for the sale of cigarettes at more than one place of business. No person shall sell or give away any tobacco product to any person below the age of eighteen (18) years. No person shall keep for sale, sell, or dispose of any cigarette containing opium, morphine, jimson weed, bella donna, strychnia, cocaine, marijuana, or any other deleterious or poisonous drug, except nicotine.

**Subsection 640.06. Administrative Penalties.**

**Subd. 1. Licensees.** If a licensee or employee of a licensee sells tobacco to a person under the age of eighteen (18) years, or violates any other provision of this Section, the licensee shall be charged an administrative penalty of \$75.00. An administrative penalty of \$200.00 must be imposed for a second violation at the same location within twenty-four (24) months after the initial violation. For a third violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of \$250.00 must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven (7) days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of an alleged violation and an opportunity for a hearing before the City Council.

**Subd. 2. Individuals.** An individual who sells tobacco to a person under the age of eighteen (18) must be charged an administrative penalty of \$50.00. No penalty may be imposed

until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the City Council is provided.

**Subd. 3. Defenses.** It is an affirmative defense to the charge of selling tobacco to a person under the age of eighteen (18) years in violation of this Section that the licensee or individual making the sale relied in good faith upon proof of age as follows:

- A. A valid driver's license or identification card issued by the State of Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; or
- B. A valid military identification card issued by the United States department of Defense; or
- C. In the case of a foreign national, from a nation other than Canada, by a valid passport.

**Subsection 640.07. Self-Service Sales.**

**Subd. 1. Single Packages.** No licensee shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee.

**Subd. 2. Cartons.** Cartons and multipack units may be offered and sold through open displays accessible to the public.

**Subd. 3. Exceptions.** The self-service restrictions of this Subsection do not apply to retail stores which derive at least ninety percent (90%) of their revenue from tobacco and tobacco related products and which cannot be entered at any time by persons younger than eighteen (18) years of age.

**Subsection 640.08. Vending Machine Sales.** No person shall sell tobacco products from vending machines. This Subsection does not apply to vending machines in facilities that cannot be entered at any time by persons younger than eighteen (18) years of age.

**Subsection 640.09. Compliance Checks.** The City shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with Minnesota Statutes, section 609.685. Compliance checks shall utilize minors over the age of fifteen (15), but under the age of eighteen (18), who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a police officer or an employee of the City.

**Subsection 640.10. Suspension and Revocation.** Every license may be suspended or revoked by the Council for a violation of any provision of this Section if the licensee has been given a reasonable notice and an opportunity to be heard.

## **SECTION 650. POOL TABLES, VIDEO GAMES, ETC.**

**Subsection 650.01. Unlawful Use.** That it shall be unlawful for any person, firm or corporation to use or permit to be used, any pool table, pinball machine, video game or any other recreational or amusement device whatsoever, by which the user thereof pays any form of a fee directly or indirectly, or by the insertion of any coin or token, or as a reward or premium for the purchase of any product or service, without first having obtained a license therefore

**Subsection 650.02. Licensing.** A license for any of the foregoing shall be obtained by application to the city clerk upon such a form as the clerk shall prepare which shall include the name, address and telephone number of the applicant; the description of the device to be licensed; the address and description of the business establishment in which said device shall be located; and a statement of whether or not the applicant holds any type of intoxicating liquor license.

**Subsection 650.03. Application.** Upon receipt of such an application the city clerk shall verify the information thereon and present the same at the next meeting of the city council, occurring not less than five (5) days after the receipt of said application; which provision the city council in its discretion may waive.

**Subsection 650.04. Schedule of Fees.** A schedule of license fees for said devices shall be as follows: Seven dollars and fifty cents (\$7.50) per establishment.

### **Subsection 650.05. Restrictions.**

**Subd. 1. Age Restrictions for Operations.** No license shall permit any person the age of 19 years or under to operate any of the foregoing devices licensed hereunder in any premises in which intoxicating liquor is served.

**Subd. 2. Time Restrictions for Operations.** No person under the age of 18 years shall be permitted to operate any of the foregoing devices in any licensed establishment between the hours of 8:00 o'clock a.m. and 3:00 o'clock p.m. on any day in which the public schools in the city are in session.

**Subsection 650.06. Violations.** That violation of any of the foregoing provisions shall constitute a petty misdemeanor, each day of violation shall constitute a separate offense therefore. Any portion of any ordinances in conflict herewith are hereby expressly repealed.

## **SECTION 660. SOLICITORS, PEDDLERS AND TRANSIENT MERCHANTS.**

**Subsection 660.01. Definitions.** The following terms shall have the meanings given them herein as applied to this Section.

**Subd. 1. Person.** The term "person" means any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations,

corporations, partnerships, and associations, the term shall include each member, officer, partner, associate, agent, or employee.

**Subd. 2. Peddler.** The term “peddler” means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property, that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term “hawker”.

**Subd. 3. Solicitor.** The term “solicitor” means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services, for which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. The term solicitor shall mean the same as the term “canvasser”.

**Subd. 4. Transient Merchant.** The term “transient merchant” means a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, or other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property, and who does not remain or intend to remain in any one location for more than five (5) consecutive days.

**Subd. 5. Regular Business Day.** Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by State law shall not be counted as regular business days.

**Subsection 660.02. Exceptions to Definitions.** For purposes of this section, the terms “solicitor”, “peddler” and “transient merchant” shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property, to a retailer or the item(s) being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, nor shall they apply to any person making deliveries of such to the customers on his or her established regular delivery route. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddler, solicitor, and transient merchant, as shall any person conducting an auction as a properly licensed auctioneer, or any officer of the Court conducting a Court ordered sale. Exemption from the definitions for the scope of this Section shall not excuse any person from complying with any other applicable statutory or local law.

**Subsection 660.03. Licensing.**

**Subd. 1. County License Required.** No person shall conduct business as solicitor, peddler or transient merchant within the City limits without first having obtained the appropriate license from the County as required by Minnesota Statutes Chapter 329 as amended.

**Subd. 2. City License Required.** Except as otherwise provided for in this Section, no person shall conduct business as a peddler or transient merchant without first having obtained a license from the City.

**Subd. 3. Application.** Application for a City license to conduct business as a peddler or transient merchant shall be made at least fifteen (15) regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available at the office of City Clerk. All applications shall be signed by the applicant.

**Subd. 4. Fee.** All applications for a license under this Section shall be accompanied by the fee established in the City's fee schedule as adopted from time to time by resolution passed by the Council.

**Subd. 5. Procedure.** Upon receipt of the completed application and payment of the license fee, the City Clerk shall forward the application to the Police Department. An application shall be determined to be complete only if all required information is provided. The Police Department shall determine whether an application is complete within two (2) regular business days of receipt. If the application is incomplete, the Police Department shall inform the applicant of any information which is missing. If the application is complete, the Police Department shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. Upon verification of the information, the application shall be forwarded to the Council for approval. The Council shall vote whether or not to issue the license at the next regularly scheduled Council meeting after receipt of the application. If the Council approves the application, the City Clerk shall issue the license to the applicant. If the application is not approved, the City Clerk shall notify the applicant in writing of the Council's decision, the reason for denial, and of his or her right to appeal the denial by requesting within twenty (20) days of receiving notice of rejection a public hearing to be heard by the Council within twenty (20) days of the request. The final decision of the Council following the public hearing shall be appealable to the Minnesota Court of Appeals for a Writ of Certiorari.

**Subd. 6. Duration.** An annual license granted under this Section shall be valid for one calendar year from April 15 to April 14. All other licenses granted under this Section shall be valid only during the time period issued on the license.

**Subsection 660.04. License Exceptions.** No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when such activity is for the purpose of exercising that person's State or Federal Constitutional rights, except when such

exercise of a right is merely incidental to a commercial activity. Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this Section.

**Subsection 660.05. Ineligibility for License.** The following shall be grounds for denying a license under this Section.

**Subd. 1. No County License.** The failure of the applicant to obtain and show proof of having obtained a County license.

**Subd. 2. Inadequate Application.** The failure of the applicant to truthfully provide any information requested by the City as part of the application, or the failure to sign the application, or the failure to pay the required application fee at the time of application.

**Subd. 3. Prior Conviction.** The conviction of the applicant within the past five (5) years from the date of application, for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will adversely affect the health, safety, or welfare of the residents of the City. Such violations shall include, but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

**Subd. 4. Prior Revocation.** The revocation within the past five (5) years of any license issued to the applicant for the purpose of conducting business as a solicitor, peddler or transient merchant.

**Subd. 5. Business Reputation.** The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than two (2) complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or five (5) such complaints filed against the applicant within the last five (5) preceding years.

**Subsection 660.06. Suspension or Revocation.**

**Subd. 1. Reasons For.** Any license issued under this Section may be suspended or revoked at the direction of the City Council for violation of any of the following:

- A. Fraud, misrepresentation, or incorrect statements on the application form.
- B. Fraud, misrepresentation, or incorrect statements made during the course of the licensed activity.
- C. Conviction of any offense for which granting of a license could have been denied under this Section.
- D. Violation of any provision of this Section.

The suspension or revocation of any license issued for the purpose of authorizing multiple

persons to conduct business as peddlers or transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

**Subd. 2. Notice.** Prior to revoking or suspending any license issued under this Section, the City shall provide the license holder with a written notice of the alleged violation(s) and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or be mailed to the permanent residential address listed in the license application, or if no residential address is listed, to the business address provided in the license application.

**Subd. 3. Public Hearings.** Upon receiving the notice provided in subdivision 2, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of request. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

**Subd. 4. Emergency.** If in the discretion of the City Council, imminent harm to the health and safety of the public may occur because of the actions of a peddler or transient merchant licensed under this Section, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as proscribed in subdivision 3 of this Subsection.

**Subd. 5. Appeals.** Any person whose license is suspended or revoked under this Subsection shall have the right to appeal the decision in Court.

**Subsection 660.07. Transferability.** No license issued under this Section shall be transferred to any person other than the person whom the license was issued.

**Subsection 660.08. Registration.** All solicitors, and any person exempt from the licensing requirements of this Section shall be required to register with the City. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue the registrant the Certificate of Registration as proof of registration. Certificates of Registration shall be non-transferrable.

**Subsection 660.09. Prohibited Activities.** No solicitor, peddler or transient merchant shall conduct business in any of the following manners:

**Subd. 1. Noises.** Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

**Subd. 2. Obstructions.** Obstructing the free flow of either vehicular or pedestrian

traffic on any street, alley, sidewalk, or other public right-of-way.

**Subd. 3. Public Safety.** Conducting business in such a way as to create a threat to the health, safety, or welfare of any individual or the general public.

**Subd. 4. Prohibited Times.** Conducting business before 7:00 A.M., or after 9:00 P.M.

**Subd. 5. No License.** Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.

**Subd. 6. Misrepresentation.** Making any false or misleading statements about the product or service being sold, including untrue statements or endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.

**Subd. 7. Trespass.** Remaining on the property of another when requested to leave, or otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

**Subsection 660.10. Exclusion by Placard.** No solicitor, peddler or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a solicitor, peddler or transient merchant when the property is marked with a sign or placard at least three and three-quarter (3 3/4) inches long and three and three quarter (3 3/4) inches wide with print of at least forty-eight (48) point type stating “No Solicitors, Peddlers or Transient Merchants”, or “Solicitors, Peddlers or Transient Merchants Prohibited”, or a comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this Section.

## **SECTION 670. VENDING MACHINES.**

**Subsection 670.01. Restrictions.** That it shall be unlawful for any person, firm or corporation to use or permit to be used, any vending machine whatsoever, by which the user thereof pays any fee directly or indirectly, or by the insertion of any coin or token, for the purchase of any product, without first having obtained a license therefore.

**Subsection 670.02. Licensing.** A license for any of the foregoing shall be obtained by application to the city clerk upon such a form as the clerk shall prepare which shall include the name, address and telephone number of the applicant; the description of the device to be licensed; the address and description of the business establishment in which said device shall be located; and a statement of whether or not the applicant holds any type of intoxicating liquor license. No vending machine shall be located on the traveled portion of a public sidewalk or way.

**Subsection 670.03. Applications.** Upon receipt of such an application the city clerk shall

verify the information thereon and present the same at the next meeting of the city council.

**Subsection 670.04. Schedule of Fees.** A schedule of license fees for said devices shall be as follows: Ten (10) dollars per establishment.

**Subsection 670.05. Age Restrictions.** No license shall permit any person the age of 19 years or under: to operate any of the foregoing devices licensed hereunder in any premises in which intoxicating liquor is served.

**Subsection 670.06. Exceptions.** The provisions of this Part 8 shall not apply to the sale of cigarettes from vending machines.

**Subsection 670.07. Violations.** That violation of any of the foregoing provision shall constitute a petty misdemeanor, each day of violation shall constitute a separate offense therefore. Any portion of any ordinances in conflict herewith are hereby expressly repealed.

## **SECTION 680. GAMBLING AND BINGO LICENSE.**

**Subsection 680.01. Purpose.** The purpose of this Section is to closely regulate and control the conduct of gambling.

**Subsection 680.02. Provisions of State Law Adopted.** The provisions of Minnesota Statutes, Chapter 349, relating to the definition of terms, licensing, and restrictions of gambling are adopted and made a part of this Section as if set out in full.

**Subsection 680.03. License or Permit Required.** No person shall directly or indirectly operate a gambling device, conduct a bingo operation, or conduct a raffle without a license to do so from the State Gambling Control Board, or if exempt from state licensing, without a permit from the City as provided in this Section.

**Subsection 680.04. Persons Eligible for a License or Permit.** A license or permit shall be issued only to fraternal, religious, and veterans organizations, or any corporation, trust, or association organized for exclusively scientific, literary, charitable, educational, or artistic purposes, or any club which is organized and operated exclusively for pleasure or recreation. Such organization must have been in existence for at least three (3) years and have at least thirty (30) active members.

**Subsection 680.05 Eligible Premises.** Gambling devices shall be operated and raffles conducted by a licensed organization only upon premises which it owns or leases, except that tickets for raffles may be sold off the premises. Leases shall be in writing and may not begin before the effective date of the premises permit and must expire on the same day that the premise permit and must expire on the same day that the premise permit expires. Rents paid by an organization for leased premises shall be subject to the guidelines set forth in Section 349.18 of the Minnesota Statute (effective May 31, 2003).

**Subsection 680.06. Local Gambling Permit Fee.** An annual gambling permit fee is to be paid to the City prior to the issuance of a permit. The fee due is the amount stated in the City fee schedule as periodically set by resolution of the council, subject to the limitations imposed on such a fee by State law.

**Subsection 680.07. Application Procedure.** Application for a permit shall be made upon a form proscribed by the Council. No person shall make a false representation in an application. The Council shall act upon an application within 180 days from the date of application, but shall not issue a permit until at least thirty (30) days after the date of application.

**Subsection 680.08. Gambling Profits.**

**Subd. 1. Requirement.** A licensed organization conducting lawful gambling within the Jurisdiction of the City of Minnesota Lake shall expend fifty percent (50%) of its expenditures for lawful purposes conducted or located within the City's trade area. Lawful purposes are those purposes defined as lawful by Minnesota Statutes.

**Subd. 2. Trade Area.** The Trade Area for the City of Blue Earth shall be the area defined by the jurisdictional boundaries of Independent School District No. 2860 in the County of Faribault and State of Minnesota.

**Subsection 680.09. Conduct of Gambling.**

**Subd. 1. Gambling Manager.** All operation of gambling devices and the conduct of raffles shall be under the supervision of a single gambling manager to be designated by the organization. The gambling manager shall be responsible for gross receipts and profits from gambling devices and raffles and for their operation. The gambling manager shall be responsible for using profits for a proper and lawful purpose.

**Subd. 2. Bond.** The gambling manager shall provide a fidelity bond in the sum of \$10,000.00 in favor of the organization conditioned on the faithful performance of his or her duties.

**Subd. 3. Qualifications of Gambling Manager.** The gambling manager shall be an active member of the organization and shall qualify under State law.

**Subsection 680.10. Compensation.** No compensation shall be paid to any person in connection with the operation of a gambling device or the conduct of a raffle by a licensed organization. No person who is not an active member of an organization, or the spouse or surviving spouse of an active member, may participate in the organization's operation of a gambling device or conduct of a raffle.

**Subsection 680.11. Reporting Requirements.**

**Subd. 1. Gross Receipts.** Each organization licensed or permitted to operate

gambling devices shall keep records of its gross receipts, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle is conducted. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of profits shall be itemized as to payee, purpose, amount and date of payment.

**Subd. 2. Separation of Funds.** Gross receipts from the operation of gambling devices and the conduct of raffles shall be segregated from other revenues or the organization, and placed in a separate account. The person who accounts for gross receipts, expenses and profits from the operation of gambling devices or the conduct of raffles shall not be the same person who accounts for other revenues of the organization.

**Subd. 3. Monthly Reports.** Each organization licensed and permitted to operate gambling devices or to conduct raffles shall report monthly to its membership, and to the City Clerk, its gross receipts, expenses and profits from gambling devices or raffles, and the distribution of profits. The licensee or permit holder shall preserve such records for three (3) years.

**Subsection 680.12. Prizes.** Total prizes awarded in or from any single game, ticket, or tip board operation used as part of a lawful gambling or bingo operation, and the total prizes awarded in any one year of operation of a lawful gambling or bingo operation shall not exceed the maximum prizes allowed by State law. In no situation shall the total prizes in any single operation of a paddle wheel or tip board or pull tab exceed the maximum prizes allowed by State law.

**Subsection 680.13. Bingo.** Nothing in this section shall be construed to authorize the conduct of bingo without acquiring a separate bingo license or permit. Bingo operations shall be conducted in accordance with Minnesota Statutes, Chapter 349 and the regulations promulgated by the Minnesota Gambling Control Board.

**Subsection 680.14. Penalties.**

**Subd. 1. Criminal Penalty.** Violation of any provision of this Section shall be a misdemeanor.

**Subd. 2. License Suspension and Revocation.** Any permit may be suspended or revoked by the Council for any violation of this Section. A permit shall not be suspended or revoked until the procedural requirements of subdivision 3 of this Subsection have been complied with, provided that in cases where probable cause exists as to a violation, the City may temporarily suspend upon service of notice of the hearing provided for in subdivision 3. Such a temporary suspension shall not extend for more than two (2) weeks.

**Subd. 3. Suspension and Revocation Procedure.** Except as otherwise provided, a permit shall not be revoked or suspended under subdivision 2 of this Subsection until notice of an opportunity to be heard has first been given to the permit holder. The notice shall be personally

served and shall state the Code provision reasonably believed to have been violated. The notice shall also state that the permit holder may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permit holder requests a hearing, one shall be held on the matter by the Council at least one (1) week after the date on which the request is made. If, as a result of the hearing, the Council finds that a violation exists, then the Council may suspend or terminate the permit.

## **SECTION 690. ADULT ENTERTAINMENT ESTABLISHMENTS.**

### **Subsection 690.01. Findings.**

**Subd. 1.** The city has reviewed and analyzed numerous studies, reports, articles, judicial decisions and the experience and legislative findings of other cities around the country concerning the impacts or "secondary effects" of sexually oriented businesses and the sale, distribution, and display of sexually oriented materials (collectively, "sexually oriented business activities") on the areas in which such activities are located or take place.

**Subd. 2.** Sexually oriented business activities can cause or contribute significantly to increases in criminal activity in the areas in which they are located or take place, thereby taxing crime prevention, law enforcement and public health services.

**Subd. 3.** Nude dancing and other similar conduct provided by sexually oriented business activities encourages prostitution, increases the frequency of sexual assaults, attracts or encourages other related criminal activity, increases the public health and safety risks associated with sexually oriented business activities, and otherwise causes or contributes significantly to the adverse impacts and secondary effects of sexually oriented business activities on the areas to which such activities are located or take place.

**Subd. 4.** Sexually oriented business activities can cause or contribute significantly to the deterioration of residential neighborhoods, can impair the character and quality of such neighborhoods and the housing located therein, and can inhibit the proper maintenance and growth of such neighborhoods, limiting or reducing the availability of quality, affordable housing for area residents and reducing the value of property in such areas.

**Subd. 5.** Sexually oriented business activities can undermine the stability of other established business and commercial uses in the areas in which sexually oriented business activities are located or take place and can cause or contribute significantly to the deterioration of such other business and commercial uses, thereby causing or contributing to a decline in such uses, an inhibition on business and commercial growth, and a resulting adverse impact on local government revenues and property values.

**Subd. 6.** Sexually oriented business activities can have a dehumanizing and distracting influence on young people and students attending schools, can diminish or destroy the enjoyment and family atmosphere of persons using parks, playgrounds, forest preserves and other

public recreational areas, can interfere with or even destroy the spiritual experience of persons attending church, synagogue, or other places of worship, and can interfere with or even destroy the opportunity for solemn and respectful contemplation at cemeteries and similar facilities.

**Subd. 7.** The presence of sexually oriented business activities is perceived by the public generally and by neighboring business owners and residents as an indication that the area in which such activities occur or take place is in decline and deteriorating, a perception that can quickly lead to such decline and deterioration, prompting businesses and residents to flee the affected area to avoid the consequences of such decline and deterioration.

**Subd. 8.** The exterior appearance, including signage, of sexually oriented business activities can have an adverse impact on young people and students; can contribute to the decline in property values associated with sexually oriented business activities; and can otherwise cause or contribute significantly to the adverse impacts and secondary effects of sexually oriented business activities on the areas in which such activities are located or take place.

**Subd. 9.** The conduct of sexually oriented business activities, including specifically, but without limitation, adult cabarets that provide nude dancing and other similar conduct and the operation and use of adult booths, often encourages or allows sexual activities and prostitution, among other things, that place employees and patrons of such businesses at risk to exposure and contraction of sexually transmitted diseases, including specifically, but without limitation, the HIV virus, Acquired Immune Deficiency Syndrome, and venereal diseases.

**Subd. 10.** The city has determined that sexually oriented business activities will, unless properly regulated, have these and other severe adverse impacts and secondary effects on the city and its residents.

**Subd. 11.** For the reasons set forth above, among others, the members of the City Council have found and determined that it is essential to the health, safety and general welfare of the city and its residents to adopt comprehensive licensing regulations relating to sexually oriented business activities, to the distribution and display of sexually oriented materials, and to the types and operation of sexually oriented businesses that may locate in the city.

**Subd. 12.** The members of the City Council have further found and determined that the establishment of the regulations provided in this chapter on the operation, maintenance, and structural aspects of sexually oriented business activities is necessary to minimize to the greatest extent possible, or to eliminate altogether, the public health and safety risks that customarily, but unnecessarily, exist in connection with such activities.

**Subd. 13.** The members of the City Council have further found and determined that the limitations on the hours of operation of sexually oriented business activities set forth in this chapter are necessary to protect and secure neighboring uses, to control adverse noise and traffic impacts associated with sexually oriented business activities, to enhance enforcement and implementation of the regulations set forth herein, and to otherwise address, mitigate, and, if

possible, eliminate the adverse impacts and secondary effects of sexually oriented business activities.

**Subd. 14.** The members of the City Council have further found and determined that the disclosure and background information requirements set forth in this chapter relating to the owners, operators, and others in a position of control over sexually oriented business activities are necessary in order for the city to implement and enforce the terms and conditions of this chapter, to aid in the prevention of crime related to sexually oriented business activities, to minimize to the greatest extent possible, or eliminate altogether, the public health risks associated with sexually oriented business activities, and to otherwise carry out the purposes and objectives of the regulations established herein.

**Subd. 15.** The regulations established pursuant to this chapter are in no way based on the content of protected speech, if any, associated with sexually oriented business activities, and the purpose and intent of the regulations established pursuant to this chapter is not to restrict or prohibit protected speech, if any, associated with sexually oriented business activities, but rather is to address, mitigate, and, if possible, eliminate the adverse impacts and secondary effects of sexually oriented business activities in the areas in which such activities are located or take place and to ensure that these activities are established, managed, and operated in a safe and legal manner at all times.

**Subd. 16.** The city has for many years engaged in rigorous, firm, and effective policies and regulations relating to uses and activities that could have adverse impacts on the continued stability and vitality of the residential and business areas of the city and the regulations imposed by this chapter are a continuation of and consistent with those long-standing policies and regulations.

**Subd. 17.** The city has the power and authority to adopt and enforce the terms, conditions, and regulations established in this chapter pursuant to (I) its general police powers to protect the public health, safety, morals, and general public welfare; and (ii) all other applicable provisions of law.

#### **Subsection 690.02. Definitions.**

**Subd. 1. Adult Arcade.** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, 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 the depicting or describing of specified sexual activities or specified anatomical areas.

**Subd 2. Adult Bookstore, Adult Novelty Store or Adult Video Store.**

(1) A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
- (b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as Adult Bookstore, Adult Novelty Store or Adult Video Store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an Adult Bookstore, Adult Novelty Store or Adult Video Store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(3) Notwithstanding the foregoing, a commercial establishment which offers for sale or rental any of the items listed in subsection (1)(a) above will not be considered to have as one of its principal business purposes the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas provided all of the following conditions are met:

- (a) Total gross revenues from the sale or rental any of the items listed in subsection (1)(a) does not exceed 10% of the commercial establishments gross revenue;
- (b) Total gross square footage of display space and stock area devoted to the sale or rental any of the items listed in subsection (1)(a) does not exceed 10% of the commercial establishments total square footage;
- (c) Display of any of the items listed in subsection (1)(a) is in a separate room or area restricted only to persons 18 years old or older and is closely monitored by management and/or employees of the commercial establishment to insure that no individual under the age of 18 enters the room or area where the items listed in subsection (1)(a) are displayed or stored;
- (d) No electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained on the premises of the establishment to show images of items listed in subsection (1)(a) to any customers or potential customers of the commercial establishment;
- (e) Only employees or management of the commercial establishment who

are 18 years old or older are permitted to enter the area where the items listed in subsection (1)(a) are stored, processed or displayed for customers or potential customers of the commercial establishment.

**Subsection 690.03. Adult Cabaret.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity or semi-nude;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**Subsection 690.04. Adult Motel.** A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures; video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than ten hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

**Subsection 690.05. Adult Motion Picture Theater.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**Subsection 690.06. Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure to specified anatomical areas or by specified sexual activities.

**Subsection 690.07. Escort.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Subsection 690.08. Escort Agency.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or

other consideration.

**Subsection 690.09. Establishment.** Any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

**Subsection 690.10. Licensee.** A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

**Subsection 690.11. Nude Model Studio.** Any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Minnesota or a college, junior college or university supported entirely or in part by public taxation, a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- (1) That has no sign visible from the exterior of the structure and, no other advertising that indicates a nude or semi-nude person is available for viewing;
- (2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and
- (3) Where no more than one nude or semi-nude model is on the premises at any one time.

**Subsection 690.12. Nudity or a State of Nudity.** The showing of the human male or female genitals, pubic area, vulva, anus with less than a fully opaque covering or the showing of the covered male genitals in a discernibly turgid state.

**Subsection 690.13. Person.** An individual, proprietorship, partnership, corporation, association, or other legal entity.

**Subsection 690.14. Semi-Nude or in a Semi-Nude Condition.** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by

a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

**Subsection 690.15. Sexual Encounter Center.** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

**Subsection 690.16. Sexually Oriented Business.** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

**Subsection 690.17. Specified Anatomical Areas.**

Means:

- (1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (2) Less than completely and opaquely covered human genitals, pubic area, vulva or anus.

**Subsection 690.18. Specified Criminal Activity.** Any of the following offenses: any unlawful lewd, indecent, or immoral conduct, including specifically, but without limitation, any of the lewd, indecent, or immoral criminal acts specified in any of the following statutes:

- (1) Sections 609.293 to 609.365 of the Minnesota Criminal Code (Sex Offenses).
- (2) Sections 617.23 to 617.296 of the Minnesota Criminal Code (Obscenity Statute).
- (3) Sections 152.01 to 152.21 of the Minnesota Criminal Code (Controlled Substances law).

**Subsection 690.19. Specified Sexual Activities.** Any of the following:

- (1) Fondling or other erotic touching of human genitals, pubic region or anus.
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Human genitals in a state of sexual stimulation, arousal, or tumescence.
- (5) Excretory functions as part of or in connection with any of the activities set forth in subsections (1), (2), (3) or (4) of this definition.
- (6) Bestiality.

**Subsection 690.20. Substantial Enlargement.** Of a sexually oriented business means the increase in floor areas occupied by the business by more than 25 %, as the floor areas exist on the

date this chapter takes effect.

**Subsection 690.21. Transfer of Ownership or Control.** Of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**Subsection 690.22. License Required.**

(A) It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this chapter.

(B) An application for a license must be made on a form provided by the city.

(C) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this chapter.

(D) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following division and each applicant shall be considered a licensee if a license is granted.

(E) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

- (a) An individual, the individual shall state his or her legal name and any aliases, and submit proof that he or she is 18 years of age;
- (b) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
- (c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
- (d) The name of the owner of the property where to be located; if a corporation, then the names of the principal owners of corporation.

- (2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state (1) the sexually oriented business's fictitious name and, (2) submit the required registration documents.
- (3) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
- (4) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension, or revocation.
- (5) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
- (6) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone if any.
- (7) The applicant's mailing address and residential address.
- (8) The applicant's driver's license number, social security number, and/or his or her state or federally issued tax identification number.
- (9) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it 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.
- (10) A straight-line drawing prepared within 30 days prior to application depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be licensed; the property lines of any established religious institution/synagogue, school, a public park or recreation area within 500 feet of the property to be licensed. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. The drawing shall be reviewed by the Building Inspector for accuracy. In the event of a dispute between the applicant and the city as to the accuracy of the drawing, the Building Inspector may order the applicant to provide a drawing with the information required under this paragraph prepared by a registered land surveyor.
- (11) Copy of lease and all financing documents, all business related contracts for supply of materials and consulting management.

**Subsection 690.23. Issuance of License.**

(A) Upon the filing of said application for a sexually oriented business license said application shall be referred to the appropriate city departments for an investigation to be made on such information as is contained in the application. The application process shall be completed within 60 days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- (1) An applicant is under 18 years of age.
- (2) An applicant or a person with whom applicant is residing is overdue hi payment to the city of taxes, fees, liens, or penalties assessed against or imposed upon him or her in relation to any business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- (4) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding 12 months or whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
- (5) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.
- (6) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
- (7) The license fee required by this chapter has not been paid.
- (8) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(B) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to this chapter. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(C) The health department, fire department and the building official shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the city.

(D) Every application for sexually oriented business license (whether for new license or for renewal of an existing license) shall be accompanied by a \$1,000 non-refundable application and investigation fee.

(E) In addition to the application and investigation fee required above, every sexually oriented business that is granted license (new or renewal) shall pay to the city an annual non-refundable license fee of \$1,000 within 30 days of license's issuance or renewal.

(F) All license applications and fees shall be submitted to the City Administrator-Clerk-Treasurer.

**Subsection 690.24. Inspection.** An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other city departments or agencies to inspect the premises of a sexually oriented business except the business office, dressing rooms and other areas not normally accessible to the public for the purpose of insuring compliance with the law, at any time it is occupied or open for business. An inspection of all areas of the premises may be conducted with the permission of the operator, agent or employee, or with an administrative search warrant.

**Subsection 690.25. Expiration of License.**

(A) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least 30 days before the expiration date.

(B) 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 date denial became final.

**Subsection 690.26. Regulation of Sexually Oriented Businesses.**

(A) All licensed sexually oriented businesses shall comply with the provisions of this chapter, all other applicable city ordinances, and all other applicable federal, state and local laws.

(B) No sexually oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material or any entertainment depicting, describing or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, search lights or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed herein. This division shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

(C) All signs for sexually oriented businesses shall be flat wall signs. The maximum allowable sign area shall be 1 square foot of sign area per foot of lot frontage on a street, but in no event exceeding 32 square feet. The maximum number of signs shall be one per lot frontage. Signs otherwise permitted pursuant to this chapter shall contain only (i) the name of the sexually oriented business and/or (ii) the specific type of sexually oriented business conducted on the licensed premises. Temporary signage shall not be permitted in connection with any sexually oriented business.

(D) No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 10:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and noon 12:00 p.m. on Sundays.

(E) A person commits a violation of this chapter if the person knowingly allows a person

under the age of 18 years on the premises of a sexually oriented business. Penalty, see §370.40.

**Subsection 690.27. Suspension/Revocation.**

(A) The city shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any section of this chapter;
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

(B) The city shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months.

(C) The city shall revoke a license if it determines that:

- (1) A licensee gave false or misleading information in the material submitted during the application process;
- (2) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (3) A licensee has knowingly allowed prostitution on the premises;
- (4) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
- (6) A licensee is delinquent in payment to the city, county or state for any taxes or fees past due.

(D) When the city revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the 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.

(E) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

**Subsection 690.28. Transfer of License.** A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

**Subsection 690.29. Severability.** In the event that any provision of this chapter, or any part

thereof, or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or otherwise invalid or ineffective by any court of competent jurisdiction on its face or as applied, such holding shall not affect the validity of effectiveness of any of the remaining provisions of this chapter, or any part thereof, or any application thereof to any person or circumstance or of said provision as applied to any other person or circumstance. It is hereby declared to be the legislative intent of the city that this chapter would have been adopted had such unconstitutional, invalid, or ineffective provision not been included herein.

**Subsection 690.30. Judicial Review.** The district court shall expediate any action brought to contest any provision of this chapter, or any action of the city under this chapter.

**Subsection 690.31. Penalty.** Any person who violates, neglects, refuses to comply with or assists or participates in any way in the violation of any of the provisions or requirements of this chapter is guilty of a misdemeanor and is subject to the penalties as provided in § 10.99.

## **SECTION 691. BURNING OF LAWN WASTE.**

**Subsection 691.01. Dates Allowed.** Burning of leaves and other lawn and garden waste will only be permitted Sept. 15 to Dec. 1.

**Subsection 691.02. Monitoring of Burning.** A reasonable person shall be in constant attendance until the fire is completely extinguished.

**Subsection 691.03. Times Allowed.** Burning will only be allowed between the hours of 7 A.M. and 8 P.M.

**Subsection 691.04. Locations Allowed.** Such fires shall be no less than 25 feet from any structure wood fence, hedge or bush and no less than five feet from any property line.

**Subsection 691.05. Locations Prohibited.** Burning of leaves is prohibited on city streets and boulevards.

### **Subsection 691.06. Exceptions.**

**Subd. 1. Pollution Alerts.** No open burning of leaves and other lawn and garden waste shall take place during an air pollution alert, warning or emergency declared by the Minnesota Environmental Protection Agency.

**Subd. 2. City Emergencies.** No open burning of leaves and other lawn and garden waste shall take place during a fire alert, warning or emergency declared by the City Fire Chief, State Fire Marshall or State Forest Service.

**Subd. 3. Unsafe Conditions.** The City Council may temporarily discontinue burning during the dates listed in #1 due to unsafe conditions.

**Subsection 691.07. Penalties.** Any person violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction be punished by a fine of no more than the maximum amount allowed by Minnesota Law and/or by imprisonment for not more than the maximum time allowed by Minnesota for a misdemeanor conviction.

## **SECTION 692. RECREATIONAL CAMPFIRE.**

**Subsection 692.01. Recreational Fires Allowed.** Recreational campfires are allowed within the City limits of the City of Minnesota Lake upon private property only and only in areas which are at least a 10 foot radius away from any structure owned by the property owner and 25 feet from structures adjacent thereto. Such fires must be no more than three feet in diameter and less than three feet in height and are for cooking or ceremonial purposes only and must be within a fire ring or similar containment device.

**Subsection 692.02. Permit.** A permit must first be obtained from the City prior to the lighting of a recreational fire within City limits. No fee shall be charged for the permit.

## CHAPTER 7.

### NUISANCES AND OFFENSES

#### SECTION 700. NUISANCES.

##### **Subsection 700.01. Public Nuisance Defined.**

Whoever by his act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (1) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) Is guilty of any other act or omission declared by law or this ordinance to be a public nuisance and for which no sentence is specifically provided.

##### **Subsection 700.02. Public Nuisances Affecting Health**

The following are hereby declared to be nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed within 24 hours after death;
- (5) Accumulations of manure, refuse, or other debris;
- (6) Privy vaults and garbage cans which are not rodent free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (8) All noxious weeds and other rank growths of vegetation upon public or private property;

- (9) Dense smoke, noxious fumes, gas and soot or cinders, in unreasonable quantities;
- (10) All public exposure of persons having a contagious disease;
- (11) Any offensive trade or business as defined by statute not licensed by the city board of health as defined by law.

**Subsection 700.03. Public Nuisances Affecting Morals and Decency.**

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

- (1) Betting, book-making, and all apparatus used in such occupations;
- (2) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (3) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place;
- (4) Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

**Subsection 700.04. Public Nuisances Affecting Peace and Safety.**

The following are declared to be nuisances affecting public peace and safety:

- (1) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;
- (2) All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
- (3) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- (4) All unnecessary noises and annoying vibrations;
- (5) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;
- (6) Radio aerials or television antennae erected or maintained in a dangerous manner;

- (7) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks;
- (8) All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (9) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (10) Any barbed wire fence more than six feet above the ground and within three feet of a public sidewalk or way;
- (11) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (12) Waste water cast upon or permitted to flow upon streets or other public property;
- (13) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated;
- (14) Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child coming on the premises where it is located;
- (15) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- (16) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;
- (17) The depositing of garbage refuse, grass clippings, twigs or trash on a public right-of-way or on adjacent private property;
- (18) All other conditions or things which are likely to cause injury to the person or property of anyone.

**Subsection 700.05. Duties of City Officers.** The police department shall enforce provisions relating to these nuisances. Such officers shall have the power to inspect private premises

and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

**Subsection 700.06. Abatement.** Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall report that fact to the council. Thereafter the council may, after notice to the owner or occupant and an opportunity to be heard, provide for abating the nuisance by the city. The notice shall be served in person or by certified or registered mail on the owner or occupant of the premises and shall be given at least ten days before the date stated in the notice when the council will consider the matter. If notice is given by posting, at least 30 days shall elapse between the day of posting the notice and the hearing.

**Subsection 700.07. Recovery of Cost.**

**Subd. 1. Personal Liability.** The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other official designated by the council shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

**Subd. 2. Assessment.** If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, any unpaid charges by the city for the cost of elimination of the nuisance may be collected as a special assessment pursuant to state law.

**Subsection 700.08. Penalty.** Any person violating the provisions of Section 700 shall be subject to an administrative penalty as specified in Section 160 of this code and/or be guilty of a petty misdemeanor.

**SECTION 710. OFFENSES.**

**Subsection 710.01. Use of Weapons.**

**Subd. 1. Restrictions.** No person except a police officer in the performance of duty shall, within the city, discharge any gun, pistol, or firearm of any description or carry any such weapon unless it is dismounted or broken apart or carried in a case in such a manner that it cannot be discharged. This subdivision does not prevent the carrying of a handgun within the city under a permit subject to the restrictions imposed by law.

**Subd. 2. Air Rifles, Sling Shots and Bows and Arrows.** No person shall use or discharge any air rifle, sling shot or bow and arrow within the city.

**Subd. 3. Offense by Parents, Guardians.** It is unlawful for any parent or guardian of any person under the age of 18 years knowingly to permit such person to violate any provision

of this section.

**Subsection 710.02. Curfew.**

**Subd. 1. Scope.** It shall be unlawful for any minor under the age of sixteen (16) years to loiter, drive or be in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public buildings, places of amusement and entertainment, or any vacant lots or areas within the limits of the City of Minnesota Lake between the hours of 10:00 p.m. and 5:00 a.m., provided, however, the provisions of this section do not apply to a minor accompanied by his or her parent, guardian or other adult person having the custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor. Each violation of the provisions of this section shall constitute a separate offense.

**Subd. 2. Parents' Responsibilities.** It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of sixteen (16) years to knowingly permit such minor to loiter, drive or be in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public buildings, places of amusement and entertainment, or any vacant lots or areas within the limits of the City of Minnesota Lake between the hours of 10:00 p.m. and 5:00 a.m., provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parent, guardian or other adult person having the custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor. Each violation of the provisions of this section shall constitute a separate offense.

**Subd. 3. Penalty.** Any person who shall violate any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed the maximum allowable for a misdemeanor offense, and/or by imprisonment of up to the maximum period for a misdemeanor offense under Minnesota law or both.

**Subsection 710.03. Shade Tree Control and Prevention.**

**Subd. 1. Declaration of Policy and Adoption of Regulations.** The Council hereby determines that the health of Elm, Oak, and other shade trees within the City limits is threatened by fatal diseases known as Dutch Elm and Oak Wilt diseases, and other trees may be threatened by other epidemic diseases of shade trees. It further determines that the loss of Elm, Oak, and other trees growing upon public and private property would substantially depreciate the value of property within the City and impair safety, good order, general welfare and convenience of the public. It is therefore declared to be the intention of the Council to control and prevent the spread of those diseases and this Section is enacted for that purpose. As a means of achieving that goal, the Shade Tree program regulations found in Minnesota Rules Section 1505 as amended are hereby adopted by reference and made part of this Code as if set out here in full.

**Subd. 2. City Tree Inspector.**

A. Position Created. The position of City Tree Inspector is hereby created. The powers and duties of the Tree Inspector shall be as set forth in this Subsection.

B. Duties of the Tree Inspector. It shall be the duty of the Tree Inspector to coordinate, under the direction and control of the Council, all activities of the City relating to the control and prevention of Dutch Elm and Oak Wilt diseases, and other epidemic diseases of shade trees, as well as control of dead, diseased, or damaged trees, whatever the cause.

**Subd. 3. Nuisances Declared.** The following are public nuisances whenever they may be found in the City:

A. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi* (Buisman, Moreau) or which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh.) Or *Hylungopinus Rufipes* (Marsh).

B. Any dead elm tree or part thereof, including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide.

C. Any living or standing oak tree or part thereof infected to any degree with the oak wilt fungus *Ceratocystis fagacearum*.

D. Any dead oak tree or part thereof which in the opinion of the Tree Inspector constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide.

E. Any other shade trees with an epidemic disease.

F. Any other standing or fallen tree containing dead branches or limbs that are broken or partially broken and suspended or hanging in such a manner so as to create a hazard to the public safety.

**Subd. 4. Abatement.** It shall be unlawful for any person to permit any public nuisance as defined in subdivision 3 of this Subsection to remain on any premises owned or controlled by him or her within the City limits. In abating a nuisance, the Tree Inspector shall cause the affected tree or wood to be sprayed, removed, burned, or otherwise effectively destroyed or prevent as completely as possible the spread of any epidemic disease or to abate the nuisance. He or she shall also take such steps as are necessary to prevent root graft transmission of the diseases. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

**Subd. 5. Inspection and Investigation.**

A. Frequency of Inspection. As often is practicable, the Tree Inspector shall inspect all public and private premises within the City which might harbor any plant pest as defined by Minnesota Statutes, Section 18.46, subd. 13, to determine whether a condition described in this Subsection exists thereon. He or she shall investigate all reported incidents of infestation by Dutch Elm fungus, Elm Bark beetles, Oak Wilt fungus, and other epidemic disease of shade trees or the existence of dead or damaged trees as defined in this Subsection.

B. Entry of Private Property. The City Tree Inspector or his or her duly authorized agent may enter upon private property at any reasonable time for the purpose of carrying out any of the duties assigned to him or her under this Subsection.

C. Diagnosis. The Tree Inspector shall, upon finding conditions indicating Dutch Elm, Oak Wilt, or other infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner. Except as otherwise provided in this Subsection, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

**Subd. 6. Procedure for Removal of Infected Trees and Wood.**

A. Action by Tree Inspector. Whenever the Tree Inspector finds with reasonable certainty that any condition defined in this Subsection exists in any tree or wood on any public or private place in the City, he or she shall proceed as follows:

1. If the Tree Inspector finds that the danger of infestation of other elm, oak, or other trees is not imminent because of the dormancy of the infected trees, he or she shall make a written report of his or her finding to the Council which shall proceed by either (a) abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429, or (b) abating the nuisance as an action of the Council.
2. If the Tree Inspector finds that danger of infestation is imminent, he or she may notify the property owner by certified mail that the nuisance will be abated within a specified time, not less than five (5) days from the date of the notice. The Tree Inspector shall immediately report such action to the Council, and after the expiration of the time limit in the notice he or she may abate the nuisance.
3. If the Tree Inspector finds any other conditions described in this Subsection, he or she shall follow the same procedures set forth in subparagraph 2 above.

B. Action By Council. Upon receipt of the Tree Inspector's report, the Council shall

by resolution order the nuisance abated. Before action is taken on the resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one (1) week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing, the Council shall hear property owners with reference to the scope and desirability of the proposed nuisance abatement. The Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

C. Record. The Tree Inspector shall keep a record of the costs of abatement done under this Subsection and shall report monthly to the City Clerk all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

D. Assessment. On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Subsection. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

**Subd. 7. Interference Prohibited.** It shall be unlawful for any person to prevent, delay, or interfere with the Tree Inspector or his or her agents while they are engaged in the performance of duties imposed by this Subsection.

**Subd. 8. Transporting Elm Wood Prohibited.** It shall be unlawful for any person to transport within the City any bark-bearing elm or oak wood without having obtained a permit from the Tree Inspector. The Tree Inspector shall grant such permits when the purpose of this Subsection will be served thereby.

**Subd. 9. Stockpiling of Elm Wood.** The stockpiling of bark-bearing elm wood within the City limits shall be permitted during the period from September 15 through April 1 of each year. Any such wood not utilized by April 1 of any year must then be removed and disposed of as provided by this Subsection and the regulations incorporated thereby.

#### **Subsection 710.04. Abandoned, Junk and Illegally Parked Vehicles.**

##### **Subd. 1. Unlawful Acts.**

A. It is unlawful to park or store any unlicensed, unregistered or inoperable vehicle, or parts or components thereof, on any property, public or private, unless housed in a building. For the purposes of this Section, inoperable vehicle shall be defined as

in Minnesota Statutes, Chapter 169.

B. It is unlawful to park or store any abandoned, unlicensed, or unauthorized vehicle, or parts or components thereof, on any property, public or private. For the purposes of this Section, abandoned, unlicensed, or unauthorized vehicles shall be as defined in Minnesota Statutes, Chapter 168B.

C. It is unlawful to park any motor vehicle in violation of any parking regulation of the City, as specified in Section 820 of this Code.

**Subd. 2. Nuisance Vehicles.** Unlicensed, unregistered or inoperable vehicles, or parts thereof, parked or stored on any property, public or private that are not housed in a building are hereby declared to be a public nuisance. The City may proceed to abate such nuisances according to the procedures set forth in this Chapter. Any vehicle which has been taken into custody by the City to abate such a nuisance shall be considered an unauthorized vehicle and may be disposed of according to the procedures set forth in subdivisions 5, 6 and 7 of this Subsection.

**Subd. 3. City Authorized to Impound.**

A. A police officer shall take into custody and impound any abandoned motor vehicle, junk motor vehicle or unauthorized motor vehicle as allowed by Minnesota Statutes, Section 168B.04.

B. When a police officer finds a vehicle standing upon a street or municipally-owned parking lot in violation of any parking regulation, such officer is hereby authorized to require the driver or other person in charge of such vehicle to remove to a position in compliance with the parking regulations of Section 820 of this Code. When a police officer finds a vehicle unattended upon any street or municipally-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle and to provide for the removal thereof.

**Subd. 4. Impound Facility.** The City Council shall designate a storage facility as the impound facility. Such place shall be reasonably safe from theft and vandalism. The City may contract with any individual or corporation for the use of such a facility as the designated facility. All costs of removal to and storage at the designated facility shall be the responsibility of the registered owner of the motor vehicle impounded.

**Subd. 5. Notice of Taking.**

A. When a motor vehicle is impounded under subdivision 2 of this Subsection as an abandoned, junk, or unauthorized vehicle, the City shall give notice of the taking within five (5) days. The notice shall:

1. Set forth the date and place of the taking, the year, make, model and serial

number of the vehicle, if easily obtained, and the place where the vehicle is being held;

2. Inform the owner and any lien holders of an abandoned, junk or unauthorized vehicle of their right to reclaim the vehicle and contents. The notice shall also state that failure to exercise that right shall be deemed as a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle at a public auction pursuant to subdivision 6 of this Subsection.

B. The notice for abandoned, junk or unauthorized vehicles shall be sent by mail to the registered owner, if any, and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

C. The notice of a vehicle impounded for a parking violation shall also be sent by mail to the registered owner of the vehicle.

**Subd. 6. Right to Reclaim.**

A. The owner or any lien holder of an abandoned or junk vehicle shall have the right to reclaim the vehicle upon payment of towing and storage charges resulting from taking the vehicle into custody within fifteen (15) days after the date of the notice.

B. The owner of any lien holder of an unauthorized vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within forty-five (45) days after the date of the notice.

C. The owner of a vehicle impounded for a parking violation shall have the right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from the taking of the vehicle into custody within forty-five (45) days of the date of the notice. After forty-five (45) days, the City may declare the vehicle abandoned and proceed as if it was dealing with an abandoned vehicle except that no charges for storing an abandoned vehicle may be brought against the owner.

D. Nothing in this Subsection shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of a lien holder to foreclose. For the purposes of this Subsection, "garage keeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

**Subd. 7. Disposal of Unclaimed Motor Vehicles by Public Sale.**

A. An abandoned, junk or unauthorized motor vehicle and contents taken into custody and not reclaimed under subdivision 5 of this Subsection shall be sold to the highest bidder at public auction or sale, following the expiration of the reclamation period for the vehicle in subdivision 5 of this Subsection. The purchaser shall be given a receipt in a form prescribed by the Register of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

B. From the proceeds of the sale of an abandoned, junk or unauthorized motor vehicle, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative notice and publication costs incurred pursuant to this Subsection. Any remainder from the sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in the General Fund of the City.

C. Disposal of Vehicles not Sold. When no bid has been received for an abandoned, junk or unauthorized vehicle, the City may dispose of it in compliance with Minnesota law.

D. Contracts on Disposal.

1. The City may contract with a qualified person for the collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned, junk, or unauthorized vehicles and other scrap metal for recycling or other methods of disposal.

2. Where the City enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where the City enters into a contract with a person duly authorized by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal for the purpose of obtaining reimbursement.

3. If the City utilizes its own equipment and personnel for disposal of the abandoned, junk or unauthorized vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided. However, the city may dispose of no more than five (5) vehicles using its own resources without advertising for or receiving bids for such disposal in any 120 day period.

E. Persons who may not Purchase - Exception.

1. No employee of the City who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in

a professional capacity, may be a purchaser of a Vehicle under this Subsection. Other City employees may be purchasers, if they are not directly involved in the sale, if they are the highest bidder, and if at least one week's published or posted notice of sale has been given.

2. It is unlawful for any person to be a purchaser of a vehicle under this Subsection if such purchase is prohibited by the terms of this subdivision.

**Subd. 8. Penalty.** Any person violating the provisions of Subsection 710.04 shall be subject to an administrative penalty and/or shall be guilty of a petty misdemeanor.

**Subsection 710.05. Demolition Derby Vehicles.** It shall be lawful to park or store an unlicensed, unregistered and inoperable motor vehicle upon private property solely for the purpose of working on said vehicle so that it may be run in a demolition derby within six months of placing said car upon one's private property. Only two such vehicles may be parked or stored upon a single private lot or parcel within the City at one time and only during the months of May through September. Said vehicles must be stored under a tarp unless being actively worked on. No such vehicles shall be worked on after 10:00 p.m. on any day. Any person violating the provisions of this subsection shall be subject to an administrative penalty as specified in Section 160 of this code and/or be guilty of a petty misdemeanor.

## CHAPTER 8.

### TRAFFIC, PARKING AND MOTOR VEHICLES

#### SECTION 800. GENERAL PROVISIONS.

**Subsection 800.01. Minnesota Statutes 168, 169, 169A and 171 adopted by Reference.**

Except as otherwise provided in this chapter, the regulatory and procedural provisions of Minnesota Statutes, Chapters 168, 169, 169A and 171 as amended, are hereby incorporated herein and adopted by reference, including the penalty provisions thereof.

**Subsection 800.02. Police Duties.** The police department shall enforce the provisions of this Chapter and the state traffic laws. Police officers are authorized to direct all traffic within the city, either in person or by means of visible or audible signals, in conformity with this ordinance and the state traffic laws. During a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the police department may direct traffic as conditions require notwithstanding the provisions of this ordinance and the state traffic laws. Officers of the fire department may direct or assist the police in directing traffic at the scene of a fire or in the immediate vicinity.

**Subsection 800.03. Application.** The purpose of this Subsection is to govern excavations and construction within public streets, alleys, and right-of-ways by developers, contractors, and other persons within the City of Minnesota Lake.

**Subd. 1. Definitions.** The terms used in this Chapter shall have the meaning given to them in Minnesota Statutes Chapter 237 or any successor statute and Minnesota Rules Chapter 7819 or any successor Rules.

**Subd. 2. Administration.** The City Clerk is the principal City official responsible for the administration of the rights-of-way, right-of-way permits, and the code provisions related thereto. The City Clerk may delegate any or all of the duties hereunder.

**Subd. 3. Utility Coordination Committee.** There is created a Utility Coordination Committee which will be composed of representatives of each service provider which has substantial utilities in the City of Minnesota Lake rights-of-way. This committee shall meet three times each year in February, November, and at another time during the summer months. The City Clerk shall send notice to each of the members of the committee setting a meeting time. The committee shall meet for the purposes of discussing upcoming, ongoing or planned construction in the City rights-of-way for informational purposes and to facilitate coordination between parties with utilities in the City rights-of-way to minimize any unnecessary digging or trenching, and to discuss ways in which the parties may best use City rights-of-way.

**Subd. 4. Excavations Permit.** It shall be unlawful for any person, other than authorized City employees, to dig up, excavate, tunnel, drill, bore, undermine, or in any other manner break up any public way or public ground or to make or cause to be made any excavation

in or under the surface of any public way or public ground, or to place, deposit, or leave upon any public way or public ground earth or excavated material obstructing or tending to interfere with the free use of the public way or public ground unless such person shall have first obtained a permit from the City.

**Subd. 5. Permit Application.** Application for a permit to make a street opening, excavation, or any disturbance of the public infrastructure shall be made at City Hall and shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation or other disturbance of the infrastructure and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the City Clerk.

**Subd. 6. Permit Extensions.** No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (I) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

**Subd. 7. Delay Penalty.** In accordance with Minnesota Rule 7819.1000 subp. 3 and notwithstanding subd. 2 of this Section, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

**Subd. 8. Limitation on Area.** A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (I) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

**Subd. 9. Limitation on Dates.** A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

**Subd. 10. Investigation of Estimated Costs and Deposits.**

A. Upon receipt of such application, the City Clerk shall cause an investigation to be made as he or she may deem necessary to determine estimated cost of repair, such as back-filling, compacting, resurfacing and replacement, manner of procedure and time limitation upon such excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of such investigation shall be included in such estimate.

B. Upon submission of an application, the City may require an applicant to deposit with the City Clerk a construction bond or cash deposit to cover the estimated cost of repair as security for the proper completion of the excavation or other disturbance of the infrastructure and the restoration of the site to its previous condition. The security shall be held until the completion of the construction work to guaranty that the restoration work has been satisfactorily completed. If the restoration work done by the applicant needs repair as determined by the City Clerk, the applicant shall do all necessary repair work. In the event the applicant fails or refuses to do the necessary repair work, the City may do the work and the cost of repair plus any administrative expenses shall be deducted from the security. Upon completion of the restoration of the site, the security or balance thereof remaining shall be refunded to the applicant. In the event that any restoration cost or completion of any work shall exceed the amount of the security, the applicant shall be liable for the additional costs.

C. The applicant may in lieu of individual security or bond for each excavation deposit with the City a bond on the amount of \$5,000.00 or more based on the circumstances. The bond shall be held until construction is completed and for a period of twelve months thereafter to guaranty that the restoration work has been satisfactorily completed.

**Subd. 11. Indemnification.** Before issuance of the permit, the applicant shall in writing agree to indemnify and hold the City harmless for any liability injury or damage arising out of the action of the applicant in the performance of the work to include any expense whatsoever incurred by the City incident to a claim or action brought or commenced by any person arising therefrom.

**Subd. 12. Permit Fee.** Upon approval of the application for the excavation permit, the applicant shall pay the fee specified in the City's fees schedule, as periodically set by resolution of the Council, subject to any limitations imposed by State law. The amount of the fee shall be to cover reasonable costs for the issuance of the permit and inspection required.

**Subd. 13. Issuance of Permit.** If the City Clerk finds that the applicant has satisfied the requirements of this Subsection and it appears that the applicant can comply with the current regulations, then the City Clerk shall issue a written permit. The City shall attempt to grant approval within twenty-four (24) hours of submission of the application.

**Subd. 14. Duties of the Applicant.** The applicant shall notify the City of the date that construction will begin prior to beginning construction. The applicant is required to provide effective safeguards to protect pedestrians and vehicular traffic. The applicant shall be responsible for any damage which may occur to the owners of any other improvements as a result of the excavation or disturbance of the infrastructure.

**Subd. 15. Emergencies.** The permit requirement may be waived in emergency

situations that require the restoration of utility services to customers. Notice shall be provided and an application for permit submitted to the City within a reasonable time after service has been restored.

**Subd. 16. Denial of Permit.** The City may deny a permit for failure to meet the requirements and conditions of this Chapter or if the City determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

**Subd. 17. Installation Requirements.** The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 or any successor Rules, and other applicable local requirements, insofar as they are not inconsistent with the Minnesota Statutes §237.162 and §237.163 or any successor Statute.

**Subd. 18. Penalty for Violation.** Any person violating this Section shall be subject to an administrative penalty as specified in Section 160 of this code and/or be guilty of a petty misdemeanor.

**Subsection 800.04. Presumption.** As to any vehicle parking in violation of this Chapter when the driver thereof is not present, it shall be presumed that the owner parked the same, or that the driver was acting as the agent of the owner. This presumption shall be rebuttable by a preponderance of the evidence.

## **SECTION 810. TRAFFIC REGULATIONS.**

**Subsection 810.01. Turning.** The council by resolution may, whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where the turning of vehicles to the left or to the right, or both, is to be restricted at all times or during specified hours. The public works director shall mark by appropriate signs any intersection so designated. No intersection on a trunk highway shall be so designated until the consent of the Commissioner of Transportation to such designation is first obtained. No person shall turn a vehicle at any such intersection contrary to the directions on such signs.

**Subsection 810.02. Through Streets; One Way Street.** The council by resolution may designate any street or portion of street as a through highway or a one-way roadway where necessary to preserve the free flow of traffic or to prevent accidents. The public works director shall post appropriate signs at the entrance to such street. No trunk highway shall be so designated unless the consent of the Commissioner of Transportation to such designation is first secured.

**Subsection 810.03. Speed Limit in School Zones.** The council may by resolution designate any street or portion of a street as a school speed zone. Upon the erection of appropriate signs by the public works director designating the beginning and ending of such speed limit zones, no person

shall drive a vehicle within the zones designated by this section in excess of the designated speed when children are present, going to or leaving school during opening or closing hours or during school recess periods.

**Subsection 810.04. Seasonal Weight Restrictions.** The public works director may prohibit the operation of vehicles upon any street under his jurisdiction or impose weight restrictions on vehicles to be operated on such street whenever the street, by reason of deterioration, rain, or snow or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles on the street is prohibited or the permissible weights thereof reduced. He shall erect and maintain signs plainly indicating the prohibition or restriction at each end of that portion of the street affected. No person shall operate a vehicle on a posted street in violation of the prohibition or restriction.

**Subsection 810.05. Establishment of Safety Zones.** To assist in the direction and control of traffic, to improve safe driving conditions at any intersection or dangerous location, and to warn pedestrians or drivers of motor vehicles of dangerous conditions or hazards, the council may establish safety zones, lanes of traffic, and stop intersections, and may order installation by the public works director of stop signs, yield signs, warning signs, signals, pavement markings, or other devices. No regulation may be established on a trunk highway unless the consent of the Commissioner of Transportation is first secured.

**Subsection 810.06. Exhibition Driving Prohibited.** No person shall turn, accelerate, decelerate or otherwise operate a motor vehicle within the city in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race. Unreasonable squealing or screeching sounds emitted by tires, or the throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.

## **SECTION 820. PARKING REGULATIONS.**

### **Subsection 820.01. Parking Restrictions**

**Subd. 1. Angle and Parallel Parking.** The council may designate by resolution streets where angle parking is required. On any such street every vehicle parked shall be parked with the front of the vehicle facing the curb or the edge of the traveled portion of the street at an angle of approximately 45 degrees and facing between the painted or other markings on the curb or street indicating the parking space. On all other streets, cars shall be parked parallel to the curb or edge of the roadway in accordance with law.

**Subd. 2. No Parking, Stopping or Standing Zones.** The city council may by resolution designate certain streets or portions of streets as no parking or no stopping or standing zones and may limit the hours in which the restrictions apply. The public works director shall mark by appropriate signs each zone so designated. Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, no person

shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited. No vehicle shall be parked in a no-parking zone during hours when parking is prohibited except that a vehicle may be parked temporarily in such zone for the purpose of forming a funeral procession and a truck may be parked temporarily between the hours of 8:00 a.m. and 5:00 p.m. of any business day for the purpose of loading or unloading where access to the premises is not otherwise available.

**Subd. 3. Time Limit Parking Zones.** The city council may by resolution designate certain areas where the right to park is limited during hours specified. The public works director shall mark by appropriate signs each zone so designated. During the hours specified on the sign, no person shall park a vehicle in any limited parking zone for a longer period than is so specified.

**Subd. 4. General Time Limit.** No vehicle shall be parked upon any street in any one place for a longer continuous period than 48 hours.

**Subd. 5. Impoundment.** Any police officer may remove a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal or street improvement or maintenance operations. Such vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this ordinance.

**Subd. 6. Prima Facie Violation.** The presence of any motor vehicle on any street when standing or parking in violation of this ordinance is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

#### **Subsection 820.02. Truck Zones, Loading Zones, Etc.**

**Subd. 1. Establishment.** The city council may by resolution establish spaces on streets as loading zones or truck zones. The city council shall specify in the resolution the times when a zone is a loading zone or truck zone. The public works director shall mark each such zone by appropriate signs.

**Subd. 2. Truck Zone Prohibitions.** During truck zone hours, no person shall stop, stand, or park any vehicle except a truck in a truck zone. No person shall stop, stand or park a truck in a truck zone during truck zone hours except to receive or discharge passengers or freight and then only for a period no longer than is necessary for the purpose.

**Subd. 3. Loading Zone Prohibitions.** During loading zone hours, no person shall stop, stand or park any vehicle in a loading zone except to receive or discharge passengers or freight and then only for a period no longer than is necessary for the purpose. No person shall occupy a loading zone with a vehicle other than a truck for more than five minutes during such hours.

**Subd. 4. Property Owner Initiative.** Any person desiring the establishment of a loading zone or truck zone abutting premises occupied by him shall make written application

therefor to the city council. If the council grants the request, the proper city officer shall bill the applicant for the estimated cost of placing signs and of painting the curb. When the amount is paid to the city treasurer, the public works director shall install the necessary signs and paint the curb.

**Subd. 5. Truck Parking.** No person shall allow any vehicle, truck, semi tractor, or semi trailer in excess of 9,000 pounds gross vehicle weight to stand or be parked for any length of time on any street in the City except in an emergency.

**Subsection 820.03. Winter Parking.** No person shall stop, stand or park any vehicle or permit it to stand on any street at any time between November 15 and April 15 between the hours of 1:00 a.m. and 7:00 a.m.

**Subsection 820.04. Penalty.** Any person who violates any provision of this Section shall be subject to an administrative penalty as specified in Section 160 of this code and/or a petty misdemeanor.

## **SECTION 830. VEHICLE RESTRICTIONS.**

**Subsection 830.01. Truck Restrictions.** The city council by resolution may designate streets on which travel by commercial vehicles in excess of a stated gross weight is prohibited. The public works director shall erect appropriate signs on such streets. No person shall operate a commercial vehicle on such posted streets in violation of the restrictions stated.

### **Subsection 830.02. Snowmobile and All-Terrain Vehicle Regulation.**

**Subd. 1. Scope of Application.** The provisions of this section shall apply to and regulate the operation and use of any self-propelled vehicle designed for travel on snow or ice steered by skis or runners, such vehicle being hereinafter called a snowmobile and shall also apply to and regulate the operation and use of any three wheel vehicle defined as motorized flotation-tired vehicle of not less than three low-pressure tires, but not more than six tires, that is limited in engine displacement of less than 800' cubic centimeters and total dry weight less than 600 pounds, such vehicle being hereinafter called a All Terrain Vehicle.

**Subd. 2. Private Property.** It is unlawful for any person to operate a snowmobile or an all-terrain vehicle on private property without having first obtained the consent or permission to operate of the owner or occupant thereof.

**Subd. 3. Sidewalks and Boulevards.** It is unlawful for any person to operate a snowmobile or all-terrain vehicle on a sidewalk or boulevard, except in crossing such sidewalk or boulevard.

**Subd. 4. Public Property.** It is unlawful for any person to operate a snowmobile or all-terrain vehicle upon any publicly owned property, including public school grounds, park property, public playgrounds and public recreational areas, without having first obtained the consent

or permission to operate of the public agency, or agent thereof, having control of such property.

**Subd. 5. Public Street.** It is unlawful for any person to operate a snowmobile or all-terrain vehicle upon a public street in any portion where such operation is prohibited by state law, or in any portion other than the right half of the roadway, as close as is practicable to the right-hand edge thereof.

**Subd. 6. Council Prohibition.** The Council may, by resolution passed after a public hearing of which notice has been published in the official paper at least ten (10) days prior to the date thereof, prohibit the operation of snowmobiles or all-terrain vehicles on any city property within the right-of-way of any public street, in such a manner as the Council finds it is required in the interest of the public safety and welfare. Upon the posting of the appropriate area of notice of such prohibition, it shall be unlawful for any person to operate a snowmobile or all-terrain vehicle in any area so posted.

**Subd. 7. Direct Crossings.** It is unlawful to operate a snowmobile or all-terrain vehicle in such a manner as to make a crossing of any street except as follows:

- (1) The crossing shall be made at an angle of approximately ninety (90) degrees with the direction of the street or highway, and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile or all-terrain vehicle shall be brought to a complete stop before crossing the shoulder or main-traveled way;
- (3) The driver shall yield the right-of-way to all oncoming traffic which constitutes an immediate hazard;
- (4) In crossing a divided street, the crossing shall be made only at an intersection of such street or highway with another public street or highway; and
- (5) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise, or during conditions of reduced visibility, it shall be made only if both front and rear lights are on and in operating condition.

**Subd. 8. Intersections.** It is unlawful for the operator of a snowmobile or all-terrain vehicle to operate the vehicle in such a manner as:

- (1) To tow any person or thing in a public street except with the use of a rigid tow bar attached to the rear of the snowmobile or all-terrain vehicle;
- (2) To be within one hundred (100) feet of any fisherman, pedestrian, skating rink or sliding area, where the operation would conflict with such use or endanger persons or property;

- (3) To leave a snowmobile or all-terrain vehicle in a public place without locking the ignition, removing the key, and taking the key away from the snowmobile or all-terrain vehicle;
- (4) To intentionally drive, chase, run over or kill any animal;
- (5) To operate a snowmobile or all-terrain vehicle during the hours from 11:00 p.m. to 7:00 a.m. of any day, closer than one hundred (100) feet to any dwelling which is usually occupied by one or more persons, except when traveling along a public right-of-way directly to the residence of the operator; or
- (6) To travel at a rate of speed greater than reasonable or proper under all existing circumstances, and in any event to exceed fifteen (15) miles per hour while traveling on a city street or alley.

**Subd. 9 Equipment.** It is unlawful to operate a snowmobile or all-terrain vehicle unless it is equipped in accordance with state statutes and rules.

**Subd 10. Noise Limitation.** It shall be unlawful to operate a snowmobile or an all-terrain vehicle at a speed or in a condition whereby said vehicle consistently produces a noise which is capable of registering above 85 decibels for a period of greater than 30 seconds.

**Subsection 830.03. Motorized Golf Carts and Neighborhood Electric Vehicles.** No person shall operate a motorized golf cart and/or a neighborhood electric vehicle on a city street, alleyway, sidewalk or other public property without first obtaining a permit as provided herein.

**Subd. 1. Permit Eligibility.** An applicant must have a valid driver's license.

**Subd. 2. Permit Application.** Every application for a permit to operate a motorized golf cart shall be made on an official form provided by the City and shall contain the following information. Permits shall be granted for 1 year periods.

- a. the name and address of the applicant;
- b. the model name, make and year of the motorized golf cart.;
- c. a current driver's license or reason for not having a driver's license; and
- d. proof of insurance in compliance with Minnesota Law for Golf Carts and/or neighborhood electric vehicles.
- e. That the vehicle meets all standards for operation upon streets as specified in Minnesota Statute Chapters 168 through 171, as amended.

**Subd. 3. Permit Fee.** The applicant shall pay a fee to the City Clerk at the time of application. The amount for the permit fee shall be set forth in the City Fee Schedule as determined by the City Council by resolution.

**Subd. 4. Age Limitation.** No person under the age of 16 shall be eligible for a

permit to operate a motorized golf cart upon public property within the City of Minnesota Lake.

**Subd. 5. Traffic Laws Applicable.** The Traffic laws of the State of Minnesota and the City of Minnesota Lake apply to the operation of a motorized golf cart by permit within the City of Minnesota Lake.

**Subd.6. Time Restrictions.** Motorized golf carts may only be operated upon public roadways and other public property from sunrise to sunset.

## **CHAPTER 9.**

### **REGULATION OF PARKS**

#### **SECTION 900. DEFINITIONS:**

- (1) A park is a playground, recreation center or any other area in the city, owned or used by the city and devoted to active or passive recreation.
- (2) Beer is any malt liquor containing not more than seven (7) per cent alcohol by weight.

#### **SECTION 910. PROHIBITED CONDUCT.**

It shall be unlawful for any person in a park to:

- (1) Bring or possess any glass beverage container into any park.
- (2) Hurt, molest, harm, frighten, kill or trap any animal, wildlife, reptile or bird.
- (3) Have or discharge any pistol or revolver.
- (4) Have or discharge any rifle, shotgun, BB gun, air gun or other weapon in which the propelling force is gunpowder, a spring or air.
- (5) Have or discharge any sling shot, bow and arrow or similar device.
- (6) Possess or consume any intoxicating beverages, other than beer.

## CHAPTER 10.

### LAND USE REGULATIONS.

#### SECTION 1000. TITLE AND APPLICATION.

**Subd. 1. Title.** This Chapter shall be known as the “Minnesota Lake Zoning Chapter” except as referred to herein, where it shall be known as “this Chapter” and shall supersede any previous Chapter specifically pertaining to the regulation of land uses/zoning within the City.

**Subd. 2. Intent and Purpose.** The intent of this Chapter is to protect the public health, safety, and general welfare of the City of Minnesota Lake and its people through the establishment of minimum regulations governing development and use. This Chapter shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration, and use of structures and land. Such regulations are established to provide adequate light, air and convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population; to provide for compatibility of different land uses; to provide for administration of this Chapter; to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties for violation of such regulations; and to define powers and duties of the City Staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to the Zoning Chapter.

**Subd. 3. Short Title.** This Chapter shall be known and may be cited as the “Minnesota Lake Zoning Chapter.

**Subd. 4. Standard, Requirement.** Where the conditions imposed by any provisions of this Chapter are either more or less restrictive than comparable conditions imposed by other Chapters, rules, or regulations of the city, the Chapter, rule, or regulation which imposes the more restrictive condition standard or requirements shall prevail.

**Subd. 5.** In their interpretation and application, the provisions of this Chapter shall be held to the minimum requirements for the promotion of the public health, safety, and welfare.

**Subd. 6.** No structure shall be erected, converted, enlarged, or used for any purpose which is not in conformity with the provisions of this Chapter.

**Subd. 7.** Except as herein provided, no building, structure, or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Chapter.

**Subd. 8. Uses Not Provided For Within Zoning Districts.** Whenever, in any zoning district, a use is neither specifically permitted nor denied, the use shall be considered

prohibited. In such case, the City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable, and, if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission, or property owner shall, if appropriate, initiate an amendment to the Zoning Chapter to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

**Subd. 9. Separability.** It is hereby declared to be the intention of the City that the several provisions of this Chapter are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provision of this Chapter to be invalid, such judgment shall not affect any other provision of this Chapter not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Chapter to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

**Subd. 10. Rules.** The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

The singular number includes the plural and the plural the singular.

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

The word "shall" is mandatory while the word "may" is permissive.

The masculine gender includes the feminine and neuter.

**SECTION 1001. DEFINITIONS AND TERMS.** The following words and terms, wherever they occur in this Chapter, shall be interpreted as herein defined:

**Subd. 1. Accessory Building or Use.** A subordinate building or use which is located on the same lot on which the main building or use is situated and is reasonably necessary and incidental to the conduct of the primary or principal use of such building or main use.

**Subd. 2. Advertising Signs.** A billboard, poster panel board, painted bulletin board, or other communicative device which is used to advertise products, goods, and/or services which are not exclusively related to the premise on which the sign is located.

**Subd. 3. Address Sign.** A sign communicating street address only, whether written or in numerical form.

**Subd. 4. Agriculture Uses.** Those uses commonly associated with the growing of produce on farms. These include, but are not limited to, field crop farming; pasture for hay; fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale in season; and livestock raising and feeding; but not including fur farms, commercial animal feed lots, and kennels.

**Subd. 5. Alley.** A public right-of-way which affords secondary access to abutting property.

**Subd. 6. Alteration.** As applied to a building or structure, is a change or rearrangement in structural parts, or enlargement or the moving from one location to another.

**Subd. 7. Apartment.** A part of a building consisting of a room or suite of rooms which is designed for, intended for, or used as a residence for one family or an individual and equipped with cooking facilities.

**Subd. 8. Apartment Building.** Three or more suites of rooms which are designed for, intended for, or occupied as a residence by a single family or an individual, and are equipped with cooking facilities (includes dwelling units and efficiency units).

**Subd. 9. Applicant.** Any person who wishes to obtain a zoning permit, zoning, or subdivision approval.

**Subd. 10. Automobile Repair.** General repair, rebuilding or reconditioning engines, motor vehicles, or trailers; collision service, including but not limited to, body, frame, or fender straightening or repair; painting and vehicle steam cleaning.

**Subd. 11. Automobile Wrecking or Junk Yard.** Any place where two (2) or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation; or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles, or merchandise.

**Subd. 12. Billboard.** See advertising sign.

**Subd. 13. Basement.** Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

**Subd. 14. Bluffline.** A line along the top of a slope connecting the points at which the slope becomes less than thirteen percent (13%).

**Subd. 15. Boarding House.** A building other than a hotel where, for compensation

and by pre-arrangement for definite periods, meals or lodging and meals are provided to three (3) or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than ten (10) people.

**Subd. 16. Boathouse.** A structure used solely for the storage of boats or boating equipment.

**Subd. 17. Buildable Area.** The portion of a lot remaining after required yards have been provided.

**Subd. 18. Building.** Any structure used or intended for supporting or sheltering any use or occupancy.

**Subd. 19. Building Height.** A distance to be measured from the average ground level to the top of a flat roof, to the average distance of the highest gable on a pitched or hip roof, to the decline of a mansard roof, to the uppermost point on other roof types.

**Subd. 20. Building Setback.** The minimum horizontal distance between the building and the specified lot line as prescribed in this Chapter.

**Subd. 21. Business.** Any establishment, occupation, employment, or enterprise where merchandise is manufactured, exhibited, or sold or where services are offered for compensation.

**Subd. 22. Business Sign.** Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including, but not limited to, entertainment, offered or sold upon the premise where such sign is located.

**Subd. 23. Campground.** An area accessible by vehicle and containing campsites or camping spurs for tent and trailer camping.

**Subd. 24. Carport.** A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on three (3) sides.

**Subd. 25. Church.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**Subd. 26. Clear-Cutting.** The removal of an entire stand of vegetation.

**Subd. 27. Clinic.** A place for the care, diagnosis and treatment of sick, ailing or injured individuals.

**Subd. 28. Club or Lodge.** A non-profit association of persons who are members paying annual dues, use of premises being restricted to members and their guests.

**Subd. 29. Commercial Agricultural.** The use of land for the growing and/or production of field crops, livestock, and livestock products.

**Subd. 30. Commercial Recreation.** Bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, tavern, theatre, boat rental, amusement rides, campgrounds and similar uses.

**Subd. 31. Commercial Uses.** All permitted and accessory uses allowed in Commercial Zoning Districts.

**Subd. 32. Conditional Use.** A use, which because of special problems of control the use permits, requires reasonable, but special, unusual and extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the Minnesota Lake Comprehensive Plan.

**Subd. 33. Conditional Use Permit.** A permit issued by the Council in accordance with procedures specified in this Chapter, as a flexibility device to enable the council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

**Subd. 34. Condominium.** A multiple dwelling containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes, Sections 515.01 to 515.19.

**Subd. 35. Control Measure.** A practice or combination of practices to control erosion and attendant pollution.

**Subd. 36. Convenience Food Establishment.** An establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

**Subd. 37. Cooperative (Housing)** A multiple family dwelling owned and maintained by the residents. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

**Subd. 38. Curb Level.** The level of the established curb in front of the building measured at the center of such front.

**Subd. 39. Day Care-Home.** A family dwelling in which foster care, supervision, and training for children is provided during part of a day with no overnight accommodations and where children are delivered and removed daily.

**Subd. 40. Day Care - Group Nursery.** A service provided to the public, in which children of school or preschool age are cared for during established business hours.

**Subd. 41. Detention Facility.** A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.

**Subd. 42. District.** A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

**Subd. 43. Dog Kennel.** Any place where three (3) dogs or more over six (6) months of age are boarded, bred and/or offered for sale, except a veterinary clinic. Dog kennels shall be permitted only in areas specifically zoned for such use.

**Subd. 44. Dredging.** To enlarge or clean out a waterbody, watercourse, or wetland.

**Subd. 45. Drive-In Establishment.** An establishment which accommodates the patron's automobile from which products purchased from the establishment may be consumed.

**Subd. 46. Dwelling - Multiple (Apartments).** A building designated with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other but having hallways and main entrances and exits.

**Subd. 47. Dwelling - Single Family.** A detached dwelling unit designed for occupancy of one (1) family.

**Subd. 48. Dwelling - Two Family.** A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

**Subd. 49. Dwelling Unit.** A residential building or portion thereof intended for occupancy by a family but not including hotels, motels nursing homes, seasonal cabins, boarding or rooming houses, tourist homes or trailers.

**Subd. 50. Easement.** A grant by a property owner for the use of a strip of land which includes but is not limited to the constructing and maintaining of utilities including but not limited to sanitary sewer, water mains, electric lines, telephone line, storm sewer or storm drainageway and gas lines.

**Subd. 51. Elderly (Senior Citizen) Housing.** A public agency owned or controlled multiple dwelling buildings with open occupancy, limited to persons over sixty (60) years of age or

in accordance with Federal and State Laws and Regulations.

**Subd. 52. Efficiency Apartment.** A dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.

**Subd. 53. Essential Services.** Underground or overhead gas, electrical, steam, or water distribution systems; collection, communication, supply, or disposal systems including, but not limited to, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, or other similar equipment and accessories in conjunction therewith; but not including buildings.

**Subd. 54. Family.** An individual or two or more persons related by blood or marriage or a group of not more than five unrelated persons living together on the premises or in a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, hotel, club lodge, sorority or fraternity house, as herein described.

**Subd. 55. Farm.** A tract of land which is principally used for commercial agriculture, all of which is owned and operated by a single family, farm corporation, individual or corporation.

**Subd. 56. Farm Dwelling.** A single family dwelling located on a farm which is used or intended for use by the farm's owner, a relative of the owner, or a person employed thereon.

**Subd. 57. Feedlot.** A lot or building, or combination of contiguous lots and buildings, intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy farms, swine facilities, beef lots and barns, horse stalls and domesticated animal zoos shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.

**Subd. 58. Fence.** A barrier forming a boundary to or enclosing some area.

**Subd. 59. Flood.** A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

**Subd. 60. Flood Fringe.** That portion of the floodplain outside of the floodway.

**Subd. 61. Flood Plan.** The channel or beds proper and areas adjoining a watercourse which have been or hereafter may be covered by the regional flood. Floodplain areas within the City shall encompass all areas designated s Zone A on the Flood Hazard Boundary Map.

**Subd. 62. Flood Proofing.** Commination of structural provisions, changes, or adjustments to the properties and structures subject to flooding primarily for the reduction or

delineation of flood damages.

**Subd. 63. Floodway.** The channel of the watercourse, bed of a wetland or lake and those portions of the adjoining floodplains reasonably required to carry and discharge the regional flood.

**Subd. 64. Floor Area.** The sum of the gross horizontal area of the several floors of the building, measured from the exterior faces of the exterior walls.

**Subd. 65. Forestry.** The management, including logging, of a forest, woodland, or plantation, and related research and educational activities, including, but not limited to, the construction, alteration, or maintenance of woodroads, skidroads, landing and fences.

**Subd. 66. Garage.** An accessory building or accessory portion of the principal building intended for and used to store the private passenger vehicles of the family or families resident upon the premises.

**Subd. 67. Governmental Sign.** A sign which is erected by a governmental unit for the purpose of identification and directing or guiding of traffic.

**Subd. 68. Grading.** Changing the natural or existing topography of land.

**Subd. 69. Guest Room.** A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

**Subd. 70. Home Occupation.** Any occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.

**Subd. 71. Hotel.** Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six (6) or more guest rooms, used, designated or intended to be used, let or hired out to be occupied or which are occupied by six (6) or more individuals for compensation, whether the compensation be paid directly or indirectly.

**Subd. 72. Hydric Soils.** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**Subd. 73. Hydrophytic Vegetation.** Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**Subd. 74. Identification Signs.** Signs located in a residential district which identify

a subdivision, apartment complex or similar identifications and set forth the address of the premises where the sign is located; and signs in all other districts which identify the business or owner, and set forth the address of the premises where the sign is located.

**Subd. 75. Impervious Surface.** An artificial or natural surface through which water, air, or roots cannot penetrate.

**Subd. 76. Industrial Use.** A permitted or accessory use allowed in the Industrial “I-1” District.

**Subd. 77. Junk or Salvage Yard.** Land or building where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products and products from wrecking of automobiles and other vehicles.

**Subd. 78. Kennel.** A lot or premises on which three (3) or more dogs, more than four (4) months of age are kept.

**Subd. 79. Land Disturbing or Development Activities.** Any change of the land surface including removing vegetative cover, excavating filling, grading and the construction of any structure.

**Subd. 80. Lodging House.** A building other than a hotel, where for compensation for definite periods, lodging is provided for three (3) or more persons not of the principal family, but not including a building providing this service for more than ten (10) persons.

**Subd. 81. Lodging Room.** A room rented as sleeping and living quarters but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as one (1) lodging room.

**Subd. 82. Lot (of Record)** A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this Chapter, which is occupied by or intended for occupancy by one (1) principal building or principal use together with any accessory buildings and such open spaces as required by this Chapter and having its principal frontage on a street or proposed street approved by the Council.

**Subd. 83. Lot.** Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this zoning regulation.

**Subd. 84. Lot Area.** The area of a horizontal plane within the lot lines.

**Subd. 85. Lot, Corner.** A lot situated at the junction of and abutting on two (2) or

more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

**Subd. 86. Lot Coverage.** The area of a lot occupied by the principal building or buildings and accessory buildings.

**Subd. 87. Lot, Depth.** The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

**Subd. 88. Lot, Frontage.** The front of a lot shall, for purposes of complying with this Chapter, be that boundary having the least width, abutting a public right-of-way.

**Subd. 89. Lot, Line.** A property boundary line of any lot held in single or separated ownership, except that where any portion of a lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

**Subd. 90. Lot, Through.** A lot fronting on two parallel streets.

**Subd. 91. Lot, Width.** The shortest horizontal distance between the side lot lines measured at right angles at the building line.

**Subd. 92. Manufactured Home.** A structure transportable in one or more sections used as a dwelling for one family, with or without a permanent foundation when connected to the required utilities, which includes the plumbing, heating, air conditioning, and electrical systems contained therein. No manufactured dwelling shall be moved into the City that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes.

**Subd. 93. Manufactured Home Park.** Any site, lot or tract of land under single ownership designed, maintained or intended for the placement of two (2) or more occupied manufactured homes. This also includes any buildings or structures appurtenant to the park.

**Subd. 94. Manufacturing - Heavy.** The manufacture, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located.

**Subd. 95. Manufacturing - Light.** All uses which include the compounding, processing, packaging, treatment or assembly of products and materials, provided such use will not generate offensive odors, glare, smoke, dust, noise, vibration or other objectionable influences that extend beyond the lot on which the use is located.

**Subd. 96. Mining Operation.** The removal from the land of stone, sand and/or gravel, coal, salt, iron, copper, nickel, granite, petroleum products or other material for commercial, industrial or governmental purposes.

**Subd. 97. Mobile Home.** A dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers and arriving at the site ready for occupancy except for incidental assembly, location on foundation, connection to utilities and the like.

**Subd. 98. Modular Home.** A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made permanently affixing the module to the site.

**Subd. 99. Motor Fuel Station.** A place where gasoline (stored only in underground tanks), kerosene, motor oil, lubricants and grease for operation of vehicles are stored or sold to the public. This also includes accessories and services for automobiles.

**Subd. 100. Name Plate.** A sign indicating the name and/or address of a building or the name of an occupant thereof, and the practice of a permitted occupation therein.

**Subd. 101. Natural Drainage System.** All land surface areas which by nature of their contour configuration collect, store and channel surface water run-off.

**Subd. 102. Natural Obstruction.** Any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within a waterbody, watercourse or wetland by a non-human cause.

**Subd. 103. Non-Conforming Building.** A building or portion of thereof existing at the time of adoption of this Chapter and not conforming to the regulations for the district in which it is situated except that such a use is not non-conforming if it would be permitted under a conditional use permit where located.

**Subd. 104. Non-Conforming Use of Land.** Any use of a lot which does not conform to the applicable use regulations of the district in which it is located.

**Subd. 105. Non-Conforming Use of Structure.** A use of a structure which does not conform to the applicable use regulations of the district in which it is located.

**Subd. 106. Nursing Home (Rest Home)** A building having accommodations where care is provided for two (2) or more invalids, infirmed, aged convalescent or physically disabled persons that are not of the immediate family; but not including hospitals, clinics, sanitariums or similar institutions.

**Subd. 107. Off-Street Loading Space.** A space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials. Such space shall be of such size as to accommodate one (1) truck of the type typically used in the particular business.

**Subd. 108. On-Premise Signs.** A sign located on the premise or property of an individual, business or organization when the sale or lease of the premise or the identification, products or services or the individual, business or organization are the subject of the sign.

**Subd. 109. Open Space Recreational Use.** Recreational use particularly oriented to and utilizing the character of an area, including hiking and riding trails, primitive campsites, campgrounds, waysides, parks and recreational areas.

**Subd. 110. Ordinary High Water Mark.** A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. In areas where the ordinary high water mark is not evident, setbacks shall be measured from the stream bank.

**Subd. 111. Parking Space.** An area, enclosed in the main building, in an accessory building or unenclosed, sufficient in size to store one (1) automobile which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

**Subd. 112. Permitted Use.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards (if any) of such districts.

**Subd. 113. Person.** An individual, firm, partnership, association, corporation or organization of any kind.

**Subd. 14. Planned Unit Development.** A large lot or tract of land developed as a unit rather than as individual development wherein two (2) or more buildings may be located in relationship to each other rather than to lot lines or zoning district boundaries.

**Subd. 115. Planning Commission.** The Planning Commission of the City of Minnesota Lake.

**Subd. 116. Portable Sign.** A sign so designed as to be movable from one (1) location to another and which is not permanently attached to the ground, sales display device or structure.

**Subd. 117. Principal Use.** The main use of land or buildings as distinguished from subordinate or accessory uses.

**Subd. 118. Public Use.** Uses owned or operated by municipal, school districts, county, state or other governmental units.

**Subd. 119. Public Utility.** Any person, firm, corporation, municipal department or board fully authorized to furnish under municipal regulation to the public, electricity, gas, steam, communication services, telegraph services, transportation, water sewer and storm sewer.

**Subd. 120. Public Water.** Any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes, Section 103F; however, no lake, pond or floodage of less than ten (10) acres in size and no river or stream having a total drainage area less than two (2) square miles. Such public water shall be determined by the Minnesota Department of Natural Resources. Any body of water created by a private user where there was no previous shoreland for a designated private use as approved by the Commission of the Minnesota Department of Natural Resources is not included as a public water.

**Subd. 121. Recreational Field or Building.** An area of land, water or any building in which amusement, recreation or athletic sports are provided for public or semi-public use, whether temporary or permanent, except a theatre, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium, circus or gymnasium is a recreation field or building for the purpose of this Chapter.

**Subd. 122. Recreational Vehicle.** A vehicular portable structure used for amusement, vacation or recreational activities, including but not limited to, travel trailers, motor homes, camping trailers and boats.

**Subd. 123. Regional Flood.** A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100 year reoccurrence interval.

**Subd. 124. Restaurant.** An establishment which serves food to be consumed primarily while seated at tables or booths within the building.

**Subd. 125. Retention Facility.** A permanent natural or man made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

**Subd. 126. Screening.** The use of plant materials, fences or earthen berms to partially conceal the separate land use from the surrounding land use.

**Subd. 127. Selective Cutting.** The removal of single scattered trees.

**Subd. 128. Sediment.** Solid matter carried by water, sewage or other liquids.

**Subd. 129. Setback.** The minimum horizontal distance between a structure and the ordinary high water mark or between a structure and a road or highway right of way line, public right-of-way or property line.

**Subd. 130. Sewage Disposal System.** Any system for the collection, treatment and dispersions of sewage, including but not limited to, septic tanks, soil absorption systems and drain fields.

**Subd. 131. Sign.** The use of any words, numerals, figures, devices or trademarks

by which anything is made known, such as are used to show an individual, firm, profession or business and are visible to the general public.

**Subd. 132. Slope.** The degree of deviation of a surface from the horizontal usually expressed in percent or degrees.

**Subd. 133. Story.** That portion of a building included above and between the upper surface of a floor and upper surface of floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

**Subd. 134. Story, Half.** That portion of a building under a gable, hip or gambrel roof, the wall plate of which, on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

**Subd. 135. Street.** A platted public thoroughfare sixty-six (66) feet or more in width, affording for current or future means of access to abutting property.

**Subd. 136. Street Frontage.** The proximity of a parcel of land to one (1) or more streets. An interior lot has one (1) street frontage and a corner lot has two (2) street frontages.

**Subd. 137. Structure.** Anything which is built, constructed or erected. An edifice or building of any kind or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.

**Subd. 138. Substandard Use.** Any use existing prior to the date of this Chapter which is permitted within the applicable zoning district, but does not meet the minimum lot area, frontage, setbacks or other dimensional standards of this Chapter.

**Subd. 139. Temporary Sign.** Any sign which is erected or displayed for a specified period of time.

**Subd. 140. Townhouses.** Structures housing two (2) or more dwelling units of not more than two (2) stories each and contiguous to each other only by sharing one (1) common wall, such structures to be of the town or row houses type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of eight (8) dwelling units, and each dwelling unit shall have separate and individual front and rear entrances.

**Subd. 141. Use.** The purpose or activity for which the land or building thereon is designated, arranged or intended or for which it is occupied, utilized or maintained and shall include the performance of such activity as defined by the performance standards of this Chapter.

**Subd. 142. Use, Accessory.** A use incidental or accessory to the principal use of a lot or a building located on the same lot with a building.

**Subd. 143. Vacation.** The act of relinquishing a recorded dedication or easement as in a street right-of-way, utility easement, etc.

**Subd. 144. Variance.** The waiving action of the literal provisions of the Zoning Chapter in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

**Subd. 145. Vegetation.** The sum total of plant life in some area or a plant community with distinguishable characteristics.

**Subd. 146. Waterbody.** A body of water (lake, pond) in a depression of land or expanded part of a river or an enclosed basin that holds water and is surrounded by land.

**Subd. 147. Watercourse.** A channel or depression through which water flows, such as rivers, streams or creeks and may flow year around or intermittently.

**Subd. 148. Watershed.** The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

**Subd. 149. Wetlands.** 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. For the purposes of this definition, wetlands must have the following three attributes:

Have a predominance of hydric soils;

Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

Under normal circumstances support a prevalence of such vegetation.

**Subd. 150. Wetland Regulatory Flood Protection Elevation.** An elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**Subd. 151. Yard.** An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

**Subd. 152. Yard - Front.** A yard extending across the front of the lot between the side of lot lines and lying between the front line of the lot and the nearest line of the building.

**Subd. 153. Yard - Rear.** A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

**Subd. 154. Yard - Side.** A yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.

**Subd. 155. Zoning Administrator.** A person appointed by the City Council to enforce the Zoning Chapter.

**Subd. 156. Zoning Map.** The maps or map incorporated into this Chapter as part thereof, and as amended, designating the zoning district.

## **SECTION 1002. CLASSIFICATION OF DISTRICTS.**

### **Subd. 1. Establishment of Districts.**

The following zoning districts are hereby established within the City of Minnesota Lake:

- A-1 Agricultural District
- R-1 Single and Two Family Residential District
- R-2 Multiple Family Residential District
- R-MH Residential-Manufactured Home District
- B-1 Highway Commercial District
- B-2 Central Business District
- I-1 Industrial District

**Subd. 2. Map.** The location and boundaries of the districts established by this Chapter are hereby set forth on the Zoning Map entitled "Zoning Map of Minnesota Lake." Said Map is on file with the Zoning Administrator, and hereinafter referred to as the "Zoning Map" which map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Chapter by reference.

**Subd. 3. Annexation.** In the event of annexation of new areas to the City, such areas shall be considered to be in the "A-1" Agricultural District until otherwise classified.

### **Subd. 4. Zoning District Boundaries.**

- A. Boundaries indicated as approximately following the center line of streets, highways, alleys or railroad lines shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately

following the center lines of streams, rivers, lakes or other bodies of water shall be construed to following such center lines.

- D. Boundaries indicated as approximately following the City limits shall be construed as following such City limits.
- E. Where a district boundary line divides a lot which was in a single ownership at the time of passage of this chapter, the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot may be interpreted by the Zoning Administrator upon request of the owner.

**Subd. 5. District Regulations.**

- A. The regulations of this Chapter within each district shall be minimum regulations, and shall apply uniformly to each class or kind of structure of land, except as hereinafter provided.
- B. No buildings, structures or land shall hereafter be used or occupied and no building structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all of the regulations herein specified for the district in which it is located.
- C. No building or other structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, to have narrower or smaller rear yards, front yard, side yards or other open spaces than herein required or in any other manner contrary to the provision of this Chapter.
- D. No yard or lot existing at the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.
- E. Except in the case of Planned Unit Development and the Agricultural “A-1” District lots exceeding one (1) acre as provided for in this Chapter, not more than one (1) principal building shall be located in a lot.
- F. No provision hereunder shall be construed so as to prevent emergency repair/rebuild of existing essential services provided said repair/rebuild does not exceed area, width, height, etc. in existence and conforming to this Chapter prior to the emergent situation.

**Subd. 6. Amendments.** It shall be the responsibility of the Zoning Administrator to maintain the Zoning Map. Amendments to said zoning map shall be recorded thereon within thirty (30) days after official publication of amendments. The Minnesota Lake Zoning Map shall be kept on file in the City Clerk's Office.

**SECTION 1003. "A-1" AGRICULTURAL DISTRICT.**

**Subd. 1. Purpose.** The purpose of the Agricultural District is to provide for existing rural uses, single-family residences and institutional uses. It is designed for areas within the City which may presently be used for agriculture, but which may be converted to urban uses in the future.

**Subd. 2. Permitted Uses.** The following are permitted uses in the "A-1" Agricultural District:

- Single-family dwellings.
- Public parks and playgrounds, recreational areas and wildlife areas/refuges.
- Hobby Farms.
- Farming and Agriculture plus related buildings and structures subject to Minnesota Pollution Control Agency standards, but not including commercial feed lots or other commercial operations.
- Nurseries, greenhouses, tree farms and landscape material operations which do not include retail sales.
- Essential services.

**Subd. 3. Accessory Uses.** The following are permitted accessory uses in the "A-1" Agricultural District:

- A. Private garages, parking areas and car ports for licensed and operable passenger cars and trucks.
- B. Operation and storage of such vehicles, equipment and machinery which are incidental to permitted or conditional uses allowed in this district.
- C. Tool houses, sheds and similar buildings for storage of domestic supplies and non-commercial recreational equipment.
- D. Recreational vehicles and equipment.
- E. Swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal

use and their guests.

F. Home occupations as regulated by Section 14 of this Chapter.

**Subd. 4. Conditional Uses.** The following are conditional uses in the "A-1" Agricultural District (Requires a conditional use permit based upon procedures set forth in and regulated by Section 18, Subd. 10 of this Chapter):

Governmental and public related utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:

When abutting a residential use in a residential use district, the property is adequately screened and landscaped.

Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.

Kennels and riding stables, commercial recreational areas and similar uses, provided that:

The principal use, function, or activity is recreational in character.

Not more than thirty percent (30%) of the land area of the site be covered by buildings or structures.

When abutting a residential use in a residential use district, the property is adequately screened and landscaped.

Animals shall be, at a minimum, kept in an enclosed pen or corral of sufficient height and strength to retain such animals.

Any building in which animals are kept shall be located a minimum of one hundred (100) feet from a lot line.

The provisions of all applicable Minnesota Pollution Control Agency standards and all other applicable state and federal standards are complied with, as may be amended.

Airports, cemeteries and golf courses.

Uses determined by the Planning Commission of similar nature to the Conditional Uses cited above and not found to be detrimental to the general health and welfare of the City.

**Subd. 5. Performance Standards.**

A. Minimum lot size: One (1) Acre

Minimum lot width: One hundred fifty (150) feet.

Setbacks (measured from lot lines):

1. Front yard: Fifty (50) feet
2. Side yard:
  - a. Interior lots: Fifteen (15) feet
  - b. Corner lots: Not less than thirty (30) feet on the side yard abutting a public street.
3. Rear yard:
  - a. Principal building: Fifty (50) feet
  - b. Accessory Buildings: Per Section 17, Subd. 3 of this Chapter.

Note: in the case of a corner lot, that yard with the shortest dimension on a public street shall be considered the front.

Maximum Building Height: Thirty-five (35) feet or two and one-half (2 ½) stories.

Maximum Site Coverage: No structure or combination of structures shall occupy more than ten percent (10%) of the lot area.

Additional requirements, including but not limited to parking, signs, planned unit developments and sewage disposal as regulated in the appropriate sections of this Chapter, as may be amended.

#### **SECTION 1004. "R-1" SINGLE AND TWO-FAMILY RESIDENTIAL DISTRICT.**

**Subd. 1. Purpose.** The purpose of the R-1 Single and Two-Family Residential District is to provide for low-density, single and two-family residences and directly related complimentary uses.

**Subd. 2. Permitted Uses.** The following are permitted uses in the "R-1" Residential District:

- Single-family dwelling.
- Two-family dwelling.
- Day Care Home.
- Public parks and playgrounds.
- Foster Home licensed by the State of Minnesota serving six (6) or less mentally or physically challenged persons.

Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutes limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues, provided that:

Side yards shall be double that required for the district.

No building shall be located within thirty (30) feet of any lot line of an abutting lot in an "R" District.

A fence shall be erected along the boundary line which is common with

private property, except that religious institutions such as churches shall be exempt from this individual provision.

Adequate screening from abutting residential uses is provided.

Adequate off-street parking and access is provided on the site or on lots directly abutting the site.

**Subd. 3. Accessory Uses.** The following are permitted accessory uses in the "R-1" Residential District:

Private garages, parking spaces and carports. Such garage shall not be used for the storage of more than one (1) commercial vehicle owned or operated by a resident of the dwelling.

Recreational vehicles and equipment.

Home Occupations as regulated by Section 14 of this Chapter.

Swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.

The keeping of animals typically classified as animals that are domesticated pets and buildings and structures for the keeping of such animals and storage of related equipment.

Fences.

One (1) lodging room per single-family dwelling.

Tool houses, sheds and similar non-commercial storage buildings.

Uses determined by Planning Commission to be similar to those listed in this subdivision.

**Subd. 4. Conditional Uses.** The following are conditional uses in the "R-1" Residential District (Requires a conditional use permit based upon procedures set forth in and regulated by Section 18, Subd. 10 of this Chapter):

Essential services: equipment and structures such as transformers, unit substations and equipment houses.

Fire station.

Police Station



One and one-half (1 ½) story dwellings containing two (2) bedrooms or less shall have a minimum of one thousand twenty (1,020) square feet plus one hundred twenty (120) square feet for each additional bedroom.

Two (2) story dwellings containing three (3) bedrooms or less, shall have a minimum of eight hundred (800) square feet on the first floor plus sixty (60) square feet for each additional bedroom per unit.

Split level design dwellings containing three (3) bedrooms or less shall have a minimum one thousand twenty (1,020) square feet plus one hundred twenty (120) square feet for each additional bedroom. Split level design shall be defined as any design wherein the entry way together with some living space is located at ground level with additional living space located above such level and/or partially below such level.

Floor Area Requirements for Two-Family Dwelling Units: Two-family dwelling units erected in the R-2 District shall have the following minimum floor areas:

One (1) story dwellings containing three (3) bedrooms or less shall have a minimum of one thousand one hundred-twenty (1,120) square feet plus one hundred twenty (120) square feet for each additional bedroom.

One and one-half (1 ½) story dwellings containing two (2) bedrooms or less shall have a minimum of seven hundred sixty-eight (768) square feet plus one hundred twenty (120) square feet for each additional bedroom.

Two (2) story dwellings containing three (3) bedrooms or less, shall have a minimum of seven hundred sixty-eight (768) square feet on the first floor plus sixty (60) square feet for each additional bedroom per unit.

Split level design dwellings containing three (3) bedrooms or less shall have a minimum one thousand twenty (1,020) square feet plus one hundred twenty (120) square feet for each additional bedroom. Split level design shall be defined as any design wherein the entry way together with some living space is located at ground level with additional living space located above such level and/or partially below such level.

Maximum Site Coverage: No structure or combination of structures shall occupy more than thirty percent (30%) of the lot area.

Additional requirements, including but not limited to parking signs, planned unit developments and sewage disposal as regulated in the appropriate sections of this Chapter, as may be amended.

The lot width, lot size and floor area requirements for all principal buildings may not be less than those allowed in Subd. 5 A, B, E & F, except if all of the following apply.

The requirements pertain directly to the proposed replacement of the principal residential use structure on lots of record with widths of at least fifty (50) feet but less than seventy-five (75) feet on the date of adoption of this Chapter.

The lot of record is within a residential district.

There is a demonstrated need and potential for continued residential use.

The building has an evident re-use as a principal structure in a residential district.

The structure has been and will continue to be maintained in a manner that is compatible with adjacent residential uses and does not present a hazard to public health, safety and general welfare.

The proposed structure is in compliance with Subd. 5 C, D, G and H of this section.

## **SECTION 1005. "R-2" MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

**Subd. 1. Purpose.** The purpose of the "R-2" Multiple-Family Residential District is to provide for multiple-family residences and directly related complimentary uses.

**Subd. 2. Permitted Uses.** The following are permitted uses in the "R-2" Residential District:

- Single-Family Dwelling
- Two-Family Dwelling
- Day Care Home
- Multiple-family dwelling structures consisting of three (3) or more units.
- Day Care Home.
- Public parks and playgrounds.
- Foster Home licensed by the State of Minnesota serving six (6) or less mentally or physically challenged persons.
- Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutes limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues,

provided that:

Side yards shall be double that required for the district.

No building shall be located within thirty (30) feet of any lot line of an abutting lot in a "R" District.

A fence shall be erected along the boundary line which is common with private property, except that religious institutions such as churches shall be exempt from this individual provision.

Adequate screening from abutting residential uses is provided.

Adequate off-street parking and access is provided on the site or on lots directly abutting the site.

### **Subd. 3. Accessory Uses.**

The following are permitted accessory uses in the "R-2" Residential District:

Private garages, parking spaces and carports. Such garage shall not be used for the storage of more than one (1) commercial vehicle owned or operated by a resident of the dwelling.

Recreational vehicles and equipment.

Home Occupations as regulated by Section 14 of this Chapter.

Swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.

The keeping of animals typically classified as animals that are domesticated pets

and buildings and structures for the keeping of such animals and storage of related equipment.

Fences.

One lodging room per single-family dwelling.

Tool houses, sheds and similar non-commercial storage buildings.

Community laundry facilities, storm shelters, park offices and recreational buildings, provided that such structures are of a permanent nature.

Uses determined by Planning Commission to be similar to those listed in this subdivision.

**Subd. 4. Conditional Uses.** The following are conditional uses in the "R-2" Residential District (Requires a conditional use permit based upon procedures set forth in and regulated by Section 18, Subd. 10 of this Chapter):

Essential services: equipment and structures such as transformers, unit substations and equipment houses.

Fire station.

Police station.

Residential Planned Unit Developments per Section 13 of this Chapter.

Manufactured homes.

Hospitals and clinics.

Nursing Homes and similar group housing, but not including hospitals, sanitariums or similar institutions, provided that:

Side yards are double the minimum requirements established for this district.

Only the rear yard shall be used for play or recreational areas.

The site shall be served by an arterial or collector street of sufficient capacity to

accommodate traffic which will be generated.

All state laws governing such use are strictly adhered to and all required operating permits are secured.

The proposed nursing home or similar group housing is in compliance with all

other provisions of this Chapter.

Elderly (senior citizen housing), provided that:

Elevator service is provided to each floor level above ground floor.

The proposed use is in compliance with all other provisions of this Chapter.

Use of the basement as an independent resident or living unit providing:

The living unit shall meet or exceed the minimum performance standards for floor area outlined in Section 6, Subd. 5 and the ceiling height shall be at least seven (7) feet high.

The living unit contains adequate ventilation and fire escapes as determined by the fire chief.

#### **Subd. 5. Performance Standards.**

Minimum lot size: Ten thousand (10,000) square feet

Minimum lot width: One hundred (100) feet.

Setbacks (measured from lot lines):

1. Front yard: Thirty (30) feet

2. Side yard:

a. Interior lots Five (5) feet

b. Corner lots: Not less than twenty (20) feet on the side yard abutting a public street.

3. Rear yard:

a. Principal building Thirty (30) feet

b. Accessory Building per Section 17, Subd. 3 of this Chapter.

Note: in the case of a corner lot, that yard with the shortest dimension on a public street shall be considered the front.

Maximum Building Height: Thirty-five (35) feet or two and one-half (2 ½)

stories.

Floor Area Requirements for Dwelling Units: Living units in building containing more than two (2) units shall have the following minimum floor areas per unit:

1. Efficiency apartments: Four hundred (400) square feet.
2. One (1) bedroom apartments: Six hundred forty (640) square feet.
3. Two (2) bedroom apartments: Seven hundred twenty (720) square feet.
4. More than two (2) bedroom apartments: One hundred twenty (120) square feet additional for each bedroom.

The minimum areas specified above for multiple unit buildings shall not include areas occupied by stairs, hallways, entryways and utility rooms. Closet space in excess of fifteen percent (15%) of above minimum floor areas shall not be included. No multiple dwelling shall have efficiency units in excess of twenty percent (20%) of the total number of units in the building.

Maximum Site Coverage: No structure or combination of structures shall occupy more than thirty percent (30%) of the lot area.

Additional requirements, including but not limited to, parking, signs, planned unit developments, mobile home parks and sewage disposal as regulated in the appropriate Sections of this Chapter, as may be amended.

The lot width, lot size and floor area requirements for all principal buildings may not be less than those allowed in Subd. 5 A, B, E & F, except if all of the following apply.

The requirements pertain directly to the proposed replacement of the principal residential use structure on lots of record with widths of at least fifty (50) feet but less than seventy-five (75) feet on the date of adoption of this Chapter.

The lot of record is within a residential district.

There is a demonstrated need and potential for continued residential use.

The building has an evident re-use as a principal structure in a residential district.

The structure has been and will continue to be maintained in a manner

that is compatible with adjacent residential uses and does not present

a hazard to public health, safety and general welfare.  
The proposed structure is in compliance with Subd. 5 C, D, G and H  
of  
this section.

**SECTION 1006. "R-MH" MANUFACTURED HOUSING RESIDENTIAL DISTRICT/  
MANUFACTURED HOME PARKS.**

**Subd. 1. Purpose.** The purpose of the "R-MH" Manufactured Housing Residential District is to provide for a district for manufactured housing parks in a specified area of the City. No manufactured home shall be admitted to any park unless it can be demonstrated that it meets the requirements of all State, County and City Codes governing the installation of plumbing, heating and electrical systems.

**Subd. 2. Permitted Uses.** The following are permitted uses in the "R-MH" Residential

District:

Single-family detached manufactured housing units when placed in manufactured home parks as defined in Subdivision 6.

Public Open Space.

**Subd. 3. Accessory Uses.** The following are permitted accessory uses in the "R-MH"

Residential District:

Uses incidental or accessory to the operation of a manufactured home park, provided such uses are only for the benefit and convenience of the occupants of the manufactured home park and approved by the City Council. Such uses shall not occupy more than ten percent (10%) of the area of the park.

**Subd. 4. Conditional Uses.** The following are conditional uses in the "R-MH" Residential District (Requires a conditional use permit based upon procedures set forth in and regulated by Section 18, Subdivision 10 of this Chapter):

All conditional uses as in the "R-1" District, subject to the same conditions as the "R-1" District.

Manufactured Home Parks, provided that:

The proposed manufactured home park is in compliance with provisions of

Subdivision  
6 of this Section.

The proposed manufactured home park is in compliance with all other provisions of this Chapter.

**Subd. 5. Performance Standards.**

Minimum district size: Ten thousand (10,000) square feet or five thousand (5,000) square feet per manufactured home site, whichever is greater. No more than five (5) manufactured home sites may be provided per acre.

Minimum lot width of district: One hundred (100) feet or fifty (50) feet per manufactured home site, whichever is greater.

District Setbacks (measured from lot lines):

1. Front yard: Twenty-five (25) feet
2. Side yard:
  - a. Interior lots Ten (10) feet
  - b. Corner lots: Not less than twenty (20) feet on the side yard abutting a public street.
3. Rear yard:
  - a. Principal building Twenty-five (25) feet
  - b. Accessory Building per Section 17, Subd. 3 of this Chapter.

Note: in the case of a corner lot, that yard with the shortest dimension on a public street shall be considered the front.

Maximum Building Height: Thirty-five (35) feet or two and one-half (2 ½) stories.

Maximum Site Coverage: No structure or combination of structures shall occupy more than thirty percent (30%) of the lot area.

Additional requirements, including but not limited to, parking, signs, planned unit developments and sewage disposal as regulated in the appropriate Sections of this Chapter, as may be amended.

**Subd. 6. Manufactured Home Park.**

**A. Intent.**

The intent and purpose of this section is to assure quality development

equal to that found in other types of residential areas throughout the City. Excellence of design, development and maintenance is the desired objective.

No person shall attempt to develop or operate a manufactured home park within the City without first obtaining a Conditional Use Permit. The requirements of a permit shall prevail over all other standards and requirements notwithstanding the more restrictive sections of this Chapter. A permit for a manufactured home park may contain other requirements beyond those mentioned in this section.

## **B. Application.**

The applicant for a permit, in addition to other requirements, shall include the name and address of the Developer and a general description of the construction schedule and construction cost. The application for a permit shall be accompanied by eight (8) copies of plans which indicate the following:

Location and site of the manufactured home park.

Location, size and character of all manufactured home lots, manufactured home stands, storage areas, recreational areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites and all setback dimensions.

Detailed landscaping plans and specifications.

Location and width of sidewalks.

Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service and gas service. The park must be suitably located for facilities including water supply, sewage disposal and fire protection.

Plans for an overhead street lighting system shall be submitted for approval by the City Engineer.

The proposed method of disposing of garbage and refuse.

Location and size of all streets abutting the manufactured home park, and all driveways from such streets to the park. Access to the manufactured home park must be provided from a public street.

Plans and specifications for all road construction either within the park  
or  
directly related to park operation.

Floor plans of all service buildings to be constructed within the  
manufactured home park.

Such other information as may be required or requested by the  
community.

Detailed description of maintenance procedures and grounds supervision.

Plans and specifications for severe weather shelters.

**C. Performance Standards for Manufactured Home Parks:**

All land area shall be adequately drained, landscaped to control dust,  
clean  
and free from refuse, garbage, rubbish or debris.

All manufactured homes shall be properly connected to a central water  
supply and a central sanitary sewer system. All water and sewer systems  
shall be constructed in accordance with plans and specifications approved  
by the Planning Commission and City Council. Where a public water  
supply is available to the manufactured home park or at the boundary of  
the park, a connection to said public water supply shall be provided for  
each manufactured home.

Access to manufactured home parks shall be as approved by the City.

The area beneath a manufactured housing unit shall be enclosed except  
that  
such enclosure must have access for inspection.

Each manufactured home park shall maintain off-street overload parking  
lot  
for guests of occupants in the amount of one (1) space for each three (3)  
sites and located within three-hundred (300) feet of the unit to be served.

All utilities, such as sewer, water, fuel, electric, telephone and television  
antenna lead-ins, shall be buried to a depth specified by the City  
Engineer, and there shall be no overhead wires or support poles except  
those essential for street or other lighting purposes.

A properly landscaped area shall be adequately maintained around each

manufactured home park. All manufactured home parks adjacent to industrial, commercial or residential land uses shall be provided with screening, such as fences or natural growth, along the property boundary lines separating the park from such adjacent uses.

Every structure in the manufactured home park shall be developed and maintained in a safe, approved and substantial manner. The exterior of every such structure shall be kept in good repair. All of said structures must be constructed to meet existing City Codes. Portable fire extinguishers rated for electrical and liquid fires shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.

All structures shall require a zoning permit.

It shall be the duty of the operator of the manufactured housing park to keep

a record of all homeowners and occupants located within the park. The park operator shall keep the record available for inspection at all times by authorized City officials and other public officials whose duty necessitates acquisition of the information contained in the record. The record shall not be destroyed until a period of three years following the date of departure of the registrant from the park. The record shall contain:

The name and address of each unit occupant.

The name and address of the owner of each unit.

The make, model and year of the unit.

The date of arrival and departure of each unit.

a. The number and type of motor vehicles of residents in the park.

The operator of any manufactured housing park or a duly authorized attendant and/or caretaker shall be responsible at all times for keeping the park, its facilities and equipment in a clean, orderly, operable and sanitary condition. The attendant or caretaker shall be answerable, along with said operator, for the violation of any provisions of these regulations to which said operator is subject.

#### **D. Manufactured Home Park Lot Requirements.**

Each manufactured home site shall contain at least five thousand (5,000) square feet of land area for the exclusive use of the occupant and shall be at least fifty (50) feet wide.

Manufactured homes shall be placed upon manufactured home lots so that

there shall be at least a twenty (20) foot clearance between manufactured homes and twenty (20) feet between the front of the manufactured home and the front lot line and twenty-five (25) feet between the rear of the manufactured home and the rear lot line.

The area occupied by a manufactured home shall not exceed fifty percent (50%) of the total area of a manufactured home site; land may be occupied by a manufactured home, a vehicle, a building, a cabana, a carport, an awning, storage closet or cupboard or any structure.

The yards shall be landscaped except for necessary driveway and sidewalk needs which shall not exceed one-half (½) the width of the site.

Each manufactured home lot shall have off-street parking space for at least two (2) automobiles. Each space shall be nine (9) feet by twenty (20) feet minimum.

The corners of each manufactured home lot shall be clearly marked and each site shall be numbered.

Each manufactured home lot shall be so designed that automobiles may not be parked within five (5) feet of the front or back of the manufactured home.

## **SECTION 1007. "B-1" HIGHWAY COMMERCIAL BUSINESS DISTRICT.**

**Subd. 1. Purpose.** The purpose of the "B-1" Highway Commercial Business District is to provide for and limit the establishment of motor vehicle oriented or dependent high intensity commercial and service activities and acceptable "quasi-industrial" and wholesale enterprises that do not need an industrial setting but which have considerable customer contact. Permitted uses take advantage of direct access to major highways, frontage roads or streets intersecting a highway in a manner other businesses are not afforded.

**Subd. 2. Permitted Uses.** The following are permitted uses in the "B-1" Highway Commercial Business District:

- Antique stores.
- Apparel or clothing store.
- Auto accessory store.
- Barber shops and beauty parlors.
- Bowling alleys.

Clinics, medical and dental.  
Commercial recreational uses.  
Convenience stores, without motor fuel facilities.  
Dance halls.  
Department store.  
Essential services.  
Florists.  
Funeral homes and mortuaries.  
Gift Shops.  
Governmental (including Fire and Police stations) and public related utility buildings and structures.  
Grain elevators.  
Greenhouses, nurseries and garden stores.  
Hospitals and medical buildings.  
Lumber yard, construction material sales, garden and landscaping sales and services (including produce).  
Major automotive repair.  
Motel.  
Motor vehicle, farm implement and recreation equipment sales, uses, structures and outdoor sales and storage accessory thereto.  
Office or professional building.  
Off-sale liquor establishment.  
On-sale liquor establishment.  
Private clubs or lodges serving food and beverages.  
Restaurants, not of the drive-in, convenience or drive-through type.  
Video store.  
Wholesale businesses.  
Wholesale or warehouse operations.  
Uses determined by Planning Commission to be similar to those listed in this subdivision.

**Subd. 3. Accessory Uses.** The following are permitted accessory uses in the "B-1" Highway Commercial Business District:

Any incidental repair, processing and storage necessary to conduct a principal use, but not to exceed thirty percent (30%) of the floor space of the principal building.

Commercial or business buildings and structures for a use accessory to the principal use but such use shall not exceed thirty (30) percent of the gross floor space of the principal use.

Fences.

Landscaping.

Off-Street Parking Facilities and Off-Street Loading Facilities as regulated by Section 16 of this Chapter.

**Subd. 4. Conditional Uses.** The following are conditional uses in the "B-1" Highway Commercial Business District (Requires a conditional use permit based upon procedures set forth in and regulated by Section 18, Subd. 10 of this Chapter):

Commercial Planned Unit Developments as regulated by Section 13 of this Chapter.

Drive-in and convenience food establishments, provided that:

When abutting a residential use in a residential use district, the property

is adequately screened and landscaped.

Parking areas shall be screened from the view of abutting residential districts.

Vehicular access points shall be limited, shall create minimal conflict with through traffic movements, shall comply with all appropriate sections of this Chapter as may be amended and shall be subject to the approval of the City Engineer.

Provisions are made to control and reduce noise.

The entire site other than that taken up by a building, structure or plantings shall be surfaced so as to control dust subject to the approval of the City Engineer.

The entire area shall have a drainage system subject to the approval of the City Engineer.

An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles.

The architectural appearance and functional plan of the building and site

shall not be so dissimilar to the existing buildings or area so as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.

Parking, lighting, signage, etc. are in compliance with appropriate sections of this Chapter as may be amended.

Commercial car washes (drive through, self-service and mechanical) provided that:

When abutting a residential use in a residential use district, the property

is adequately screened and landscaped.

Parking areas shall be screened from the view of abutting residential districts.

Stacking space is constructed, subject to approval by the City Engineer,

to accommodate that number of vehicles which can be washed during a maximum thirty (30) minute period.

Vehicular access points shall be limited, shall create minimal conflict with through traffic movements, shall comply with all appropriate sections of this Chapter as may be amended and shall be subject to the approval of the City Engineer.

The entire site other than that taken up by a building, structure or plantings shall be surfaced so as to control dust subject to the approval of the City Engineer.

The entire area shall have a drainage system subject to the approval of the City Engineer.

The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area so as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.

Provisions are made to control and reduce noise.

Parking, lighting, signage, etc. are in compliance with appropriate sections of this Chapter as may be amended.

Motor vehicle and truck fuel sales, auto repair and service, provided that:

Motor fuel facilities are installed in accordance with state and city standards.

Adequate space shall be provided to access gas pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations minimize conflict with circulation, access and other activities on the site.

Wherever fuel pumps are to be installed, pump islands shall be installed.

A protective canopy located over the pump island(s) may be an accessory structure on the property; however, adequate visibility both on and off site shall be maintained.

An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles.

When abutting a residential use in a residential use district, the property is adequately screened and landscaped.

Parking areas shall be screened from the view of abutting residential districts.

Vehicular access points shall be limited, shall create minimal conflict with through traffic movements, shall comply with all appropriate sections of this Chapter as may be amended and shall be subject to the approval of the City Engineer.

Provisions are made to control and reduce noise.

The entire site other than that taken up by a building, structure or plantings shall be surfaced so as to control dust subject to the

approval of the City Engineer.

The entire area shall have a drainage system subject to the approval of the City Engineer.

The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area so as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.

Parking, lighting, signage, etc. are in compliance with appropriate sections of this Chapter as may be amended.

Convenience Store with gasoline, provided that:

The sale of food items is in compliance with state and county standards and subject to the approval of a Health Inspector who shall provide specific written sanitary requirements for each proposed sale location.

The approximate area and location devoted to non-automotive merchandise sales shall be specified in general terms in the application.

Motor fuel facilities are installed in accordance with state and city standards.

Adequate space shall be provided to access gas pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations minimize conflict with circulation, access and other activities on the site.

1. Wherever fuel pumps are to be installed, pump islands shall be installed.
2. A protective canopy located over the pump island(s) may be an accessory structure on the property however adequate visibility both on and off site shall be maintained.
3. An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles.
4. When abutting a residential use in a residential use district, the property is adequately screened and landscaped.
5. Parking areas shall be screened from the view of abutting residential districts.
6. Vehicular access points shall be limited, shall create minimal conflict with through traffic movements, shall comply with all appropriate sections of this Chapter as may be amended and shall be subject to the approval of the City Engineer.
7. Provisions are made to control and reduce noise.
8. The entire site other than that taken up by a building, structure or plantings shall be surfaced so as to control dust subject to the approval of the City Engineer.
9. The entire area shall have a drainage system subject to the

approval of the City Engineer.

10. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area so as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.

11. Parking, lighting, signage, etc. are in compliance with appropriate sections of this Chapter as may be amended.

Open or outdoor service, sale and rental other than those specified as a permitted use in this district, provided that:

Such outdoor or open services, sales and rentals are limited to fifty percent (50%) of the gross floor area of the principal use.

When abutting a residential use in a residential use district, the property is adequately screened and landscaped.

The use does not take up parking space as required for conformity to this Chapter.

The entire site other than that taken up by a building, structure or plantings shall be surfaced so as to control dust subject to the approval of the City Engineer.

Parking, lighting, signage, etc. are in compliance with appropriate sections of this Chapter as may be amended.

"Off-site" advertising signs.

Industrial Uses.

**Subd. 5. Performance Standards.**

Minimum Lot Size: Ten thousand (10,000) square feet.

Minimum lot width: One hundred (100) feet.

Setbacks (measured from lot lines):

- 1. Front yard: Thirty (30) feet
- 2. Side yard: Twenty (20) feet, unless abutting a residential district, then thirty-five (35) feet.
- 3. Rear yard: Twenty (20) feet, unless abutting a residential district, then thirty-five (35) feet.

Note: in the case of a corner lot, that yard with the shortest dimension on a public street shall be considered the front.

Maximum Building Height: Forty-five (45) feet or three (3) stories.

Maximum Site Coverage: No structure or combination of structures shall occupy more than thirty percent (30%) of the lot area.

Additional requirements, including but not limited to, parking, signs, planned unit developments and sewage disposal as regulated by appropriate Sections of this Chapter, as may be amended.

## **SECTION 1008. "I-1" INDUSTRIAL DISTRICT.**

**Subd. 1. Purpose.** The purpose of the Industrial District is to establish, preserve and regulate areas in the City for manufacturing, processing, assembly and fabrication, storage and warehousing and other industrial and related uses. These uses shall maintain a high level of performance and appearance, including open spaces and landscaping and encouraging development that is compatible with abutting districts.

**Subd. 2. Permitted Uses.** The following are permitted uses in the "I-1" Industrial District:

Manufacturing or assembly of a wide variety of products that produces no exterior noise, glare, fumes, obnoxious products, by-products or wastes or creates other objectionable impact on the environment, including the generation of large volumes of traffic. Examples of such uses include: fabrication or assembly of small products such as opticals, electronic, pharmaceutical, medical supplies and equipment and printing and publishing.

Bottling establishments.

Dry cleaning and dyeing establishments.

Manufacturing of crates, boxes, baskets, furniture, veneer, cabinets and similar wood items.

Manufacturing of plastic, fiberglass and metal products.

Building materials sales and storage, lumber yards.

Warehousing of non-explosive material or equipment.

Offices related to industrial uses.

Machine shops, lumber yards, etc.

Major automotive repair.

Appliance assembly and warehousing, freight terminals and classification yards, concrete products plants, building materials production, clothing or apparel manufacturing and similar uses.

Highway maintenance shops and yards.

Grain elevators.

Uses determined by Planning Commission to be similar in nature to those listed in this

subdivision.

**Subd. 3. Accessory Uses.** The following are permitted accessory uses in the "I-1" Industrial District:

Off-street parking as defined in Section 16 of this Chapter.

Any use customarily incidental to the uses permitted in Subdivisions 2 and 4 of this Section, provided the buildings do not exceed thirty percent (30%) of the floor space of the principal building.

**Subd. 4. Conditional Uses.** The following are conditional uses in the "I-1" Industrial District (Requires a conditional use permit based upon procedures set forth in and regulated by Section 18, Subd. 10 of this Chapter):

Open or outdoor service, sale and rental as a principal or accessory use, provided that: Outside services, sales and equipment rental connect with the principal use is limited to fifty percent (50%) of the gross floor area of the principal use. Outside sales areas are fenced and screened from view of neighboring residential uses or an abutting residential district. Sales area is grassed or surfaced to control dust.

Accessory, enclosed retail, rental service, or processing, manufacturing activity other than that allowed as a permitted use or conditional use within this Section, provided that:

Such use is allowed as a permitted use in a business district.

Such use does not constitute more than fifty percent (50%) of the gross floor area of the principal use.

Adequate off-street parking and off-street loading is provided in compliance with Section 16 of this Chapter.

All signage is in compliance with Section 15 of this Chapter.

Government buildings and public facilities.

Commercial/Industrial Planned Unit Developments.

Storage, utilization or manufacturing of materials or products which could decompose by demolition.

Refuse and garbage disposal.

Crude oil, gasoline or other liquid storage tanks, bulk fuel sales and storage.

Fertilizer and chemical sales and storage.

Any manufacturing, processing, cleaning, storage, testing of materials or goods similar

to those listed in Subd. 4 which conform with the performance standards of this Section.

**Subd. 5. Performance Standards.**

Minimum lot size: One (1) acre (43,560 square feet)

Setbacks (measured from lot lines):

1. Front yard: Forty (40) feet
2. Side yard: Thirty (30) feet
3. Rear yard: Forty (40) feet

Note: in the case of a corner lot, that yard with the shortest dimension on a public street shall be considered the front.

Minimum lot width: One hundred (100) feet.

Maximum Building Height: Forty-five (45) feet or three (3) stories.

Maximum Site Coverage by Buildings: Fifty percent (50%) of the total lot area.

Additional requirements, including but not limited to, parking, signs, planned unit developments and sewage disposal are listed in appropriate sections of this Chapter as may be amended.

**SECTION 1009. FLOOD PLAIN DISTRICT.**

**Subd. 1. Statutory Authorization, Findings of Fact and Purpose.**

- A. Statutory Authorization. The Legislature of the State of Minnesota has, in Minnesota Statutes Chapters 103F and Chapter (394 for counties or 462 for municipalities) delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statute, Chapter 103F further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program.
- B. Statement of Purpose. The purpose of this Section is to maintain the community's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

- C. Warning of Disclaimer of Liability. This Chapter does not imply that areas outside of the flood plain district or land uses permitted within such districts will be free from flooding and flood damages. This Chapter shall not create liability on the part of the City of Minnesota Lake or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decisions lawfully made thereunder.

**Subd. 2. General Provisions.**

- A. Adoption of Flood Hazard Boundary Map. The Flood Hazard Boundary map dated June 11, 1976 is hereby adopted by reference and shall serve as the Official Flood Plain Zoning District Map.
- B. Lands to Which Chapter Applies. This Chapter shall apply to all lands designated as flood plain within the jurisdiction of the City of Minnesota Lake.
- C. Interpretation. The boundaries of the flood plain district shall be determined by scaling distances on the Official Flood Plain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the flood plain district, the City of Minnesota Lake shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the community shall:
  - Require a flood plain evaluation consistent with Subdivision 4(C) of this Chapter to determine a 100-year flood elevation for the site; or
  - Base its decision on available hydraulic /hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.
- D. Definitions. Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Chapter its most reasonable application.
- E. Accessory Use or Structure - a use or structure on the same lot with and of a nature customarily incidental and subordinate to, the principal use or structure.
- F. Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- G. Flood Fringe - that portion of the flood plain outside of the floodway.

- H. Flood Plain - the channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Flood plain areas within the City of Minnesota Lake shall encompass all areas designated as Zone A on the Flood Hazard Boundary Map.
- I. Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- J. Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged spoil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material or matter in, along, across or projecting into any channel, watercourse, lake bed or regulatory flood plain which may impede, retard or change the direction of flow, either in itself or by catching or collecting debris carried by floodwater.
- K. Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristics of what can be expected to occur on an average frequency in magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Hazard Boundary Map.
- L. Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- M. Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers /vehicles not meeting the exemption criteria specified in Subdivision 12 (A) of this Chapter and other similar items.

**Subd. 3. Conflict with Pre-Existing Zoning Regulations and General Compliance.**

The Flood Plain District as Overlay Zoning District. The flood plain zoning district shall be considered an overlay zoning district to all existing land use regulations of the community. The uses permitted in Subdivisions 4 and 5 of this section shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this section shall apply in addition to other legally established regulations of the community and where this section imposes greater restrictions the provisions of this section shall apply.

Compliance. No new structure or land shall hereafter be used and no structure

shall be located, extended, converted or structurally altered without full compliance with the terms of this Chapter and other applicable regulations which apply to uses within the jurisdiction of this Chapter. Within the Floodway and Flood Fringe all uses not listed as permitted uses in Subdivision 4 shall be prohibited. In addition, a caution is provided here that:

New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Section and specifically Subdivisions 4 and 12;

Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Section and specifically Subdivision 9; and

As-built elevations for elevated structures must be certified by ground surveys as stated in Subdivision 7 of this Section.

**Subd. 4. Permitted Uses, Standards, and Flood Plain Evaluation Criteria.**

A. Permitted Uses in the Flood Plain. The following uses of land are permitted uses in the flood plain district:

Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation or storage of materials or equipment.

Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards in Subdivision 4 (B) of this Chapter and the flood plain evaluation criteria in Subdivision 4 (C) of this Chapter for determining floodway and flood fringe boundaries.

Travel trailers and travel vehicles are regulated by Subdivision 12 of this Chapter.

B. Standards for Flood Plain Permitted Uses.

Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for

removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

C. Storage of Materials and Equipment:

The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.

Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the Regulatory Flood Protection Elevation.

D. No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

E. All structures, including accessory structures, additions to existing structures and manufactured homes shall be constructed on fill so that the basement floor or first floor if there is no basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation must be no lower than one (1) foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of the structure constructed thereon.

F. All Uses.

Uses that do not have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.

G. Commercial and Manufacturing Uses.

Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two (2) feet or be subject to flood velocities greater than

four (4) feet per second upon occurrence of the regional flood.

H. On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided:

On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

New or replacement on-site Sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

I. Flood Plain Evaluation.

Upon receipt of an application for a permit, manufactured home park development or subdivision approval within the flood plain district, the City of Minnesota Lake shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the Regulatory Flood Protection Elevation for the site. Procedures consistent with Minnesota Rules 1983 Parts 6120.5600 (Technical Standards and Requirements For Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for Local Chapters) shall be followed during the technical evaluation and review of the development proposal.

J. The City of Minnesota Lake shall submit one copy of all information required by Subdivision 4(C) of this Section of this Chapter to the respective Department of Natural Resources' Area Hydrologist for review and comment at least twenty (20) days prior to the granting of a permit or manufactured home park development/subdivision approval by the community. The City of Minnesota Lake shall notify the respective Department of Natural Resources Area Hydrologist within ten (10) days after a permit or manufactured home park

development/subdivision approval is granted.

**Subd. 5. Utilities, Railroads, Roads and Bridges in the Flood Plain District.** All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state flood plain management standards contained in Minnesota Rules 1983 Parts 6120.5000 - 6120.6200.

**Subd. 6. Subdivisions.**

- A. No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the City of Minnesota Lake for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. The City of Minnesota Lake shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.
- B. In the Flood Plain District, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in Subdivision 4 (C) of this Section. The City of Minnesota Lake shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in Subdivisions 4 and 5 of this Section.
- C. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- D. Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

**Subd. 7. Administration.**

**A. Permit Required.**

A Permit issued by the City of Minnesota Lake shall be secured prior to the construction, addition or alteration of any building or structure prior to the use or change of use of a building, structure or land prior to the change or extension of a nonconforming use and prior to excavation or the placement of an obstruction within the flood plain.

B. State and Federal Permits.

Prior to granting a Permit or processing an application for a variance, the City of Minnesota Lake shall determine that the applicant has obtained all necessary State and Federal permits.

C. Certification of Lowest Floor Elevations.

The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section. The City of Minnesota Lake shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the flood plain district.

**Subd. 8. Variances.**

A. A variance means a modification of a specific permitted development standard required in an official control including this section to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

B. The City Council may authorize upon appeal in specific cases such relief or variance from the terms of this section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the City Council shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.

C. Variances from the provisions of this section may be authorized where the City Council has determined the variance will not be contrary to the public interest and the spirit and intent of this Chapter. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

D. The City shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A

copy of all decisions granting a Variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

E. Appeals. Appeals from any decision of the City Council may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.

F. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that:

The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

**Subd. 9. Non-Conformities.**

A structure or the use of a structure or premises which was lawful before the passage or amendment of this Chapter but which is not in conformity with the provisions of this section may be continued subject to the following conditions:

No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.

An alteration within the inside dimensions of a nonconforming use or structure is permissible provided it will not result in increasing the flood damage potential of that use or structure.

The cost of all structural alterations or additions both inside and outside of

a

structure to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then the structure must meet the standards of

Subdivision 4 of this section for new structures.

If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter. The City of Minnesota Lake may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this section.

**Subd. 10. Penalties for Violation**

A violation of the provisions of this section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variance) shall constitute a misdemeanor.

In responding to a suspected violation, the Zoning Administrator and Local

Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

When a violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

The Zoning Administrator shall notify the suspected party of the requirements

of this section and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either

Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Chapter and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Chapter.

**Subd. 11. Amendments.** All amendments to this Chapter, including revisions to the Official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the flood plain. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Chapter and said notice shall include a draft of the Chapter amendment or technical study under consideration.

**Subd. 12. Travel Trailers and Travel Vehicles.** Travel trailers and travel vehicles that do not meet the exemption criteria specified immediately below shall be subject to the provisions of this Chapter and as specifically spelled out in Subdivision 12 (C) and 12 (D) below.

A. Exemption: Travel trailers and travel vehicles are exempt from the provisions of this section if they are placed in any of the areas listed in Subdivision 12 (B) below and further they meet the following criteria:

Have current licenses required for highway use.

Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

B. Areas Exempted For Placement of Travel/Recreational Vehicles:

Individual lots or parcels of record.

Existing commercial recreational vehicle parks or campgrounds.

Existing condominium type associations.

- C. Travel trailers and travel vehicles exempted in Subdivision 12 (A) lose this exemption when development occurs on the parcel exceeding five hundred (500) dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in Subdivision 4 of this Section.
- D. New commercial travel trailer or travel vehicle parks or campgrounds and  
new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation determined in accordance with the provisions of Subdivision 4 of this Section and proper elevated road access to the site exists in accordance with Subdivision 4 of this Section. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

- E. All new or replacement travel trailers or travel vehicles not meeting the criteria of Subdivision 12 (D)1 above may, as an alternative, be allowed if in accordance with the following provisions:

The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year

flood.

Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation.

All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Subdivision 4 of this Section.

## **SECTION 1010. SURFACE WATER MANAGEMENT.**

**Subd. 1. Findings.** The City of Minnesota Lake hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City of Minnesota Lake to provide adequate water, sewage, flood control and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas which may be affected by unplanned land usage.

**Subd. 2. Purpose.** The purpose of this Section is to promote, preserve and enhance the natural resources within the City of Minnesota Lake and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

### **Subd. 3. Scope and Effect.**

#### **A. APPLICABILITY.**

Every applicant for subdivision approval or a commercial or industrial permit to allow land disturbing activities must submit a surface (storm) water management plan to the City. No subdivision approval or permit to all land disturbing activities, including but not limited to, mining, excavation, filling and grading shall be issued until approval of the surface (storm) water management plan or a waiver of the approval requirement has been obtained in conformance with the provisions of this Chapter. The provisions of this Section apply to all land, public or private, located within the City of Minnesota Lake.

#### **B. EXEMPTIONS.**

The provisions of this Section do not apply to:

Any part of a subdivision if a plat for the subdivision has been approved by the City of Minnesota Lake on or before the effective date of this Chapter.

Any land disturbing activity for which plans have been approved by the watershed management organization within six months prior to the effective date of this Chapter.

A lot for which a zoning permit has been approved on or before the effective date of this Chapter.

Installation of fence, sign, telephone and electric poles and other kinds of posts

or poles; or  
Emergency work to protect life, limb or property.

C. WAIVER.

The City upon recommendation of the Planning Commission, may waive any requirement of this Section upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in this Section. The City may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements.

**Subd. 4. Surface (Storm) Water Management Plan Approval Procedures.**

A. APPLICATION.

A written application for surface (storm) water management plan approval, along with the proposed surface (storm) water management plan, shall be filed with the Zoning Administrator and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this Section. Prior to applying for approval of a surface (storm) water management plan, an applicant may have the surface (storm) water management plans reviewed by the City.

Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the City and shall be accompanied by a receipt evidencing payment of fees (if applicable) for processing and approval as set forth in Subdivision 5 (E), and a bond when required by Subdivision 5 (D) in the amount to be calculated in accordance with that subdivision. Drawings shall be prepared to scale appropriate to the site of the project and suitable for the review to be performed. At a minimum the scale shall be one (1) inch equals one hundred (100) feet.

B. SURFACE (STORM) WATER MANAGEMENT PLAN.

At a minimum, the surface (storm) water management plan shall contain the following information:

Existing Site Map: A map of existing site conditions showing the site and immediately adjacent areas, including:

The name and address of the applicant; a legal description of the property directly associated with the request; north point; date; scale of drawing; and number of sheets;

- Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, and districts or other landmarks;
- Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two (2) feet;
- A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of vegetation which may be found in the water, a statement of general water quality, and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;
- Location and dimensions of existing surface (storm) water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate surface (storm) water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where surface (storm) water collects;
- A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the Developer to render the soils suitable; and
- Vegetative cover and clearly delineating any vegetation proposed for removal.

Site Construction Plan: A site construction plan including:

- Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
- Locations and dimensions of all temporary soil or dirt stockpiles;
- Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this Section;
- Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this Section; and
- Provisions for maintenance of the construction site erosion control measures during construction.

Plan of Final Site Conditions: A plan of final site conditions on the same scale as the existing site map showing the site changes including:

- Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed

- changes to existing topography and remaining features;
- A drainage plan of the developed site delineating in which direction and at what rate surface (storm) water will be conveyed from the site and settling forth the areas of the site where surface (storm) water will be allowed to collect;
- The proposed size, alignment and intended use of any structures to be erected on the site;
- a. A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and
- b. Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.

**Subd. 5. Plan Review Procedure.**

**A. PROCESS.**

Surface (storm) water management plans meeting the requirements of Subdivision 4 shall be submitted by the Zoning Administrator to the City Engineer or Designee for review in accordance with the standards of Subdivision 6. The Planning Commission shall recommend approval, recommend approval with conditions, or recommend denial of the surface (storm) water management plan to the City Council. Following Planning Commission action, the surface (storm) water management plan shall be submitted to the City Council at its next available meeting. City Council action on the surface (storm) water management plan must be accomplished within sixty (60) days following the date the application for approval is filed with the Zoning Administrator.

**B. DURATION.**

Approval of a plan submitted under the provisions of this Section shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval the applicant makes a written request to the Zoning Administrator for an extension of time to commence construction setting forth the reasons for the requested extension, the City may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the Zoning Administrator within fifteen (15) days. The Zoning Administrator, after consulting with the City Engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised in the same manner as originally approved.

**C. CONDITIONS.**

A surface (storm) water management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this Section are met. Such conditions may, among other matters, limit the size,

kind or character of the proposed development; require the construction of structures, drainage facilities, storage basins, and other facilities; require replacement of vegetation; establish required monitoring procedures; stage the work over time; require alternation of the site design to insure buffering; and require the conveyance to the City or other public entity of certain lands or interests therein.

#### D. PERFORMANCE BOND.

Prior to approval of any surface (storm) water management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easement, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended.

The adequacy, conditions and acceptability of any agreement and bond shall be determined by the City Council or any official of the City as may be designated by resolution of the City Council.

#### E. FEES.

All applications for surface (storm) water management plan approval shall be accompanied by a processing and approval fee, if applicable, and as specified by the City Council through resolution.

**Subd. 6. Approval Standards.** No surface (storm) water management plan which fails to meet the standards contained in this Section shall be approved by the City Council.

#### A. SITE DEWATERING.

Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

#### B. WASTE AND MATERIAL DISPOSAL

All waste and unused building materials, including but not limited to, garbage, cleaning wastes, debris, wastewater, toxic materials or hazardous materials, shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or surface (storm) sewer system.

#### C. TRACKING

Each site shall have graveled roads, access drives and parking areas of sufficient

width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

#### D. DRAIN INLET PROTECTION

All surface (storm) drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards, and specifications contained in the Minnesota Pollution Control Agency publication entitled "Protecting Water Quality in Urban Areas".

#### E. SITE EROSION CONTROL

The following criteria (1 through 4) apply only to construction activities that result in runoff leaving the site.

Channeled runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than ten thousand (10,000) square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff rates of less than one-half ( $\frac{1}{2}$ ) feet per second across the disturbed area for the one year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.

All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

Runoff from the entire disturbed area on the site shall be controlled by meeting either Subsection (a) and (b) or (a) and (c):

All disturbed ground left inactive for fourteen (14) or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.

For sites with more than ten (10) acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent (1%) of the area draining to the basin and at least three (3) feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three (3) feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

For sites with less than ten (10) acres disturbed at one time, silt fences, straw

bales or equivalent control measures shall be laced along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales or equivalent control measures must include a maintenance and inspection schedule.

Any soil or dirt storage piles containing more than ten (10) cubic yards of material should not be located with a downslope drainage length of less than twenty-five (25) feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven (7) days, they shall be stabilized by mulching, vegetative cover, tarps, or other means. Erosion from piles which will be in existence for less than seven (7) days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than twenty-five (25) feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the surface (storm) drain inlets must be protected with straw bale or other appropriate filtering barriers.

#### F. SURFACE (STORM) WATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES.

An applicant shall install or construct, on or for the proposed land disturbing or development activity, all surface (storm) water management facilities necessary to manage increased runoff so that the two-year, ten-year, and 100-year storm peak discharge rates existing before the proposed development shall not be increased, and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or monetary contribution to the development and maintenance of community surface (storm) water management facilities designed to serve multiple land disturbing and development activities undertaken by one (1) or more persons, including the applicant.

The applicant shall give consideration to reducing the need for surface (storm) water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

The following surface (storm) water management practices shall be investigated in developing a surface (storm) water management plan:

- Natural infiltration of precipitation on-site, if located outside of areas considered sensitive to groundwater contamination;
- Flow attenuation by use of open vegetated swales and natural depressions;
- Surface (storm) water retention facilities; and

Surface (storm) water detention facilities.

A combination of successive practices may be used to achieve the applicable minimum control requirements specified in Subsection (1) above. The applicant shall provide justification for the method selected.

G. DESIGN STANDARDS.

Surface (storm) water detention facilities constructed in the City of Minnesota Lake shall be designed according to standards approved by the City Engineer.

H. WETLANDS.

Rules and regulations applicable to wetlands and set forth by the Minnesota Wetland Conservation Act and Federal Clean Water Act are hereby incorporated.

I. MODELS/METHODOLOGIES/COMPUTATIONS.

Hydrologic models and design methodologies used for the determination of runoff and analysis of surface (storm) water management structures shall be approved by the City Engineer. Plan, specification, and computations for surface (storm) water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the City Engineer.

J. WATERSHED MANAGEMENT AND GROUNDWATER MANAGEMENT PLANS.

Surface (storm) water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minnesota Statutes Section 103B.231 and 103B.255 respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.

K. EASEMENTS.

If a surface (storm) water management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

**SECTION 1011. PLANNED UNIT DEVELOPMENTS.**

**Subd. 1. Purpose.** The purpose of this subdivision is to make provision for planned unit projects within the City of Minnesota Lake for larger tracts of land under single or unified ownership, developed with community or public sewer. Such residential subdivision unit projects allow modification of individual lot area and width requirements to allow cluster development,

multiple dwellings, and mobile home parks. Residential subdivision unit projects shall be developed in accordance with an overall design and an integrated development plan and otherwise in accordance with the City Subdivision Regulations. Such projects shall be consistent with the intent and purpose of this Chapter and shall not adversely effect the property adjacent to the land included in the project.

**Subd. 2. Regulations.**

No more than thirty percent (30%) of the land shall be used for buildings, tennis courts, swimming pools, roads and other impervious surfaces.

Projects shall be so designed as to provide adequate sewer and water facilities and public access; lots should be of adequate size to provide emergency and/or service vehicle public access. Buildings shall be spaced to allow emergency vehicles freedom to maneuver between buildings.

At least fifty percent (50%) of the PUD area shall be common; property and dedicated as open space.

An application for PUD must be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved final plan shall be binding on all owners.

Each project must comply with Department of Natural Resources guidelines for planned unit developments in shoreland areas.

**Subd. 3. Administrative Procedure.** Upon filing an application for PUD, the applicant of the proposed PUD is encouraged to meet with the Zoning Administrator and Planning Commission in an informal review session to provide an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area in which it is proposed and its conformity to the provisions of this Section. The informal review session is intended to prevent the applicant from incurring substantial expense in the preparation of plans, surveys and other data.

The proponents of a Planned Unit Development shall submit a preliminary subdivision plat and a site plan, along with an application for a Conditional Use Permit, to the City Planning Commission and City Council. Such preliminary plat and site plan shall conform to the provisions of this Chapter and the City Subdivision regulations. Such site plan shall include:

General Information:

The landowner's name and address and his interest in the subject property.

The applicant's name and address if different from the landowner.

The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, engineer and surveyor.  
Evidence the landowner has significant control over the subject property.

Present Status Information:

The address and legal description of the subject property.  
The existing zoning classification, site development and present use of subject property and all lands within one thousand (1000) feet of the subject property.  
Property boundary lines and dimensions of the subject property.  
Graphic Reproductions of Existing Site Conditions including a minimum of (all graphics should be the same scale to allow for easy cross reference):

Contours.

Slope analysis.

Location and extent of waterbodies, wetlands, streams and floodplains within the subject property and those within three hundred (300) feet of the subject property.

Existing drainage patterns.

Soil Conditions.

A written statement generally describing the proposed PUD and the market which it is intended to serve and how the proposed PUD is to be designed, arranged and operated. When requested and/or when appropriate: the number of residential dwelling units and expected population; the gross square footage of commercial and industrial floor space by type of activity (i.e. drug store, supermarket, salon); preliminary architectural plans including floor plan, elevations and exterior wall finishes of proposed building(s).

The proposed name of the development.

Existing adjacent development.

Proposed public or community sanitary sewer and water systems, including size, type and capacity.

Proposed roadway, private or public, type and capacity of surfacing.

Proposed site development and development schedule.

Size and location of proposed and existing buildings on the subject

site.

Proposed landscaping.

Site and lot dimensions.

Allocation and disposition of park and open space.

Type of use and density of each building, including a relief drawing of the general building design or theme intended for all buildings other than single and two-family units. Roadways that are private in PUD's shall remain private and are not subject to public maintenance.

Location, type and sizing of signage.

A preliminary plat prepared in accordance with the Subdivision Chapter of the City Code.

The City may excuse an applicant from submitting any specific item of information or document required which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

The City may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect thereof.

Within thirty (30) days of receiving the preliminary subdivision plat, site plan, and application for a Conditional Use Permit from the proponents of a Planned Unit Development the Planning Commission shall hold a public hearing on said proposal. Legal notice of said hearing shall consist of the property's legal description, a description of the request and a general description of the property's location. Said legal notice shall be published in the City's official newspaper a minimum of ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to the hearing to all land owners of record within three hundred fifty (350) feet of the boundary of the property in question. Failure of property owner to receive said notice shall not invalidate any such proceedings as set forth within this Section.

Within thirty (30) days of the public hearing, or such further time as may be agreed to by the applicant, the Planning Commission shall make a finding of fact and submit its recommendation to the City Council. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan

for approval.

Upon receiving the recommendation of the Planning Commission, or until sixty (60) days after the public hearing at which the preliminary plat was considered, the City Council shall place the recommendation on the agenda for the next regular meeting. Such recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

Upon receiving the report and recommendation of the Planning Commission, the City Council shall either:

Approve or disapprove the request as recommended by the Planning Commission, or

Approve or disapprove the recommendation of the Planning Commission with modifications, alterations or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the Council's records, or

Refer the recommendation back to the Planning Commission for future consideration. This procedure shall be followed only one (1) time on a singular action.

If the Conditional Use Permit for the preliminary plat and site plan is approved, the preliminary plat and site plan shall be attached to and become a part of the Conditional Use Permit. Any modification to the preliminary plat or site plan will require a re-submission to and approval by the City Planning Commission and the City Council.

If the Conditional Use Permit is approved, the final plat shall be submitted to the City in accordance with the City Subdivision Regulations and the provisions of this Chapter.

Within one (1) year after the approval of a final plat for a PUD, or such time as may be established by an approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within allotted schedule shall automatically render void the PUD permit and all approvals of the PUD plan unless an extension is granted by the City Council.

**Subd 4. General Regulations.** Requirements for signs, parking, sewage disposal, etc., as regulated in appropriate Sections of this Chapter, as may be amended.

## SECTION 1012. HOME OCCUPATIONS.

**Subd. 1. Purpose.** The purpose of this Section is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. In addition, this Section is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily “more sensitive” home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

**Subd. 2. Regulations.** All occupations conducted in the home shall comply with the provisions of this Section, the provisions of the district in which it is located and other sections of this Chapter.

**Subd. 3. Process.** Any home occupation as defined in this Chapter shall require a “home occupation license”. Such license shall be issued subject to the conditions of this Section and other applicable City Code provisions and state law. This license may be issued by the Zoning Administrator based upon proof of compliance with the provisions of this Section. Application for the permitted home occupation license shall be accompanied by a fee if so designated by City Council resolution. If the Zoning Administrator denies a home occupation license to an applicant, the applicant may appeal the decision to the City Council which shall make the final decision. The license shall remain in full force and effect until such time as there has been a change in conditions or until such time as the provisions of this Section have been changed. At such time as the City has reason to believe that either event has taken place, a public hearing shall be held before the Planning Commission. The City Council shall make a final decision on whether or not the permit holder is entitled to the license.

**Subd. 4. Permitted home Occupation Regulations.** Permitted home occupations include and are limited to: art studio, dressmaking, secretarial services, family day care, foster care, professional offices and teaching with musical, dancing and other instructions which consist of no more than one pupil at a time and similar uses. The following regulations shall apply:

No person other than those who customarily reside on the premises  
and/or  
one (1) additional employee shall be in one's employ on the premises.

All permitted home occupations shall be conducted entirely within the principal building whenever possible and should not be conducted in an accessory building.

Permitted home occupations shall not create a parking demand in excess  
of  
that which can be accommodated in an existing driveway.

The home occupation shall not involve any of the following: repair service or manufacturing

which requires equipment other than found in a home; teaching which customarily consists of more than one pupil at a time; over-the-counter sale of merchandise produced off the premises, except for those brand name products that are not marketed and sold in a wholesale or retail outlet.

**Subd. 5. Special Home Occupations.** Examples of Special Home Occupations include: barber and beauty services, day care, group nursery, bed and breakfasts as outlined in Subd. 5, D 4, photography studio, saw sharpening, small appliances and small engine repair and other occupations similar in nature. The following regulations shall apply:

- A. Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this Section shall require a “special home occupation license” which shall be applied for, reviewed and disposed of in accordance with the provisions of this Chapter.
- B. Declaration of Conditions. The Planning Commission and the Council may impose such conditions of the granting of a “special home occupation license” as may be necessary to carry out the purpose and provisions of this Section.
- C. A “Special Home Occupation License” may be issued for a period of one (1) year after which the license may be reissued for periods of up to five (5) years each. Each application for license renewal shall, however, be processed in accordance with the procedural requirements of the initial special home occupation license.
- D. Special Home Occupation Requirements:

No person other than a resident shall conduct the home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for non-resident assistance and that this exception would not compromise the intent of this Chapter.

The home occupation may involve any of the following: stock-in-trade incidental to the performance of the service, repair service or manufacturing which requires equipment other than customarily found in a home, the teaching with musical, dancing and other instruction of more than one pupil at a time.

Special home occupations may be allowed to accommodate their parking demand through utilization of on-street parking.

Bed and Breakfasts may be permitted as a special home occupation provided that

Four (4) or fewer rooms are for rent for a period not to exceed fourteen (14) consecutive days during any ninety (90) day period. The establishment conforms with the State Health and Building Code requirements.

Large functions of twenty five (25) or more such as receptions or business meetings shall be permitted on-site providing such functions shall be limited to a maximum of seventy-five (75) people. The total of said functions shall not exceed six (6) events per calendar year.

Small functions of less than twenty five (25) people such as receptions or business meetings shall be permitted on site, unrestricted.

Massage Therapy may be permitted as a special home occupation provided that all requirements outlined in this Section and other City Chapters are met.

**Subd. 6. General Provisions.**

No home occupation shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.

No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.

Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.

There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.

The floor area devoted to the home occupation shall not exceed twenty-five (25) percent of the total ground area occupied by buildings on the lot.

There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling,

with the exception that one (1) non-illuminated sign measuring one and one-half (1½) square feet may be attached to the dwelling.

Whenever within one (1) year after granting a license, the use as permitted by the license shall not have been initiated, then such license shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Council.

**Subd. 7. Non-Conforming Use.** Existing home occupations lawfully existing on the effective date of this Chapter may continue as non-conforming uses. They shall however, be required to obtain licenses for their continued operation. Any existing home occupation that is discontinued for a period of more than one (1) year shall be brought into conformity with the provisions of this Chapter prior to re-institution.

**Subd. 8. Inspection.** The City hereby reserves the right upon issuing any home license to inspect the premises in which the occupation is being conducted to ensure compliance and the provisions of this Section or any conditions additionally imposed.

## **SECTION 1013. SIGNS.**

**Subd. 1. Purpose.** The purpose of this Section is to protect, insure, maintain and regain the natural and scenic beauty and attractiveness of the roadside throughout Minnesota Lake. By the construction of public roads, the public has created views to which the public retains a right of view and it is the intent of these standards to prevent the taking of that right. Signs are recognized as accessory uses and are permitted in all districts subject to the regulations of this Chapter.

### **Subd. 2. Prohibited Signs.**

No sign shall be allowed that is a hazard to the public health, safety, convenience, welfare or that prevents ingress or egress from any door, window or fire escape that tends to accumulate debris as a fire hazard or that is attached to a standpipe or fire escape.

Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. No sign shall be placed so as to destruct or interfere with traffic visibility or traffic control.

Private signs are prohibited within the public right-of-way of any street or easement.

Signs with rotating beams or flashing illumination are prohibited.

Rotating signs are prohibited.

Signs painted or attached to vehicles where the vehicle is parked on a property and not intended to be moved.

Roof signs are prohibited.

**Subd. 3. Regulations.**

A. All signs along state and federal highways shall conform to state and federal sign regulations. Billboards erected along US Highway 22 shall be spaced a minimum of two thousand five hundred (2,500) feet apart.

B. All permanent off-site freestanding signs shall require Conditional Use Permits.

C. Sign Maintenance.

Painting: The owner of any sign shall be required to have such a sign properly painted at least once every two (2) years, if needed, including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust.

Area Around Signs: The owner, or lessee, of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also for a distance of six (6) feet behind at the ends of said sign.

D. Obsolete Signs.

Any sign which no longer advertises a bona fide business conducted or a project sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which the sign may be found, within ten (10) days after written notice from the Zoning Administrator.

E. Unsafe or Dangerous Signs.

Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign is located within ten (10) days after written notification from the Zoning Administrator.

**Subd. 4. Exemptions.** The following signs do not require a permit, however, they shall conform to the requirements of this section.

Signs for one and two-family residential dwellings identifying the occupant or street address, provided that such signs are less than one (1) square foot in area.

Pedestrian vehicular traffic and parking directional signs in parking lots, provided such signs are less than eight (8) square feet in area and less than six (6) feet in height.

Public signs, street signs, warning signs or signs of public companies for the purpose of safety.

Signs denoting the architect, engineer, contractor or owners when placed upon a work site. Such signs shall be removed within ten (10) days after completion of construction.

Signs designating candidates seeking public political office, provided that such election sign shall not exceed eight (8) square feet in size. Such signs shall be located on private property, shall not be located so as to obstruct vehicular lines of sign and shall be removed in accordance with state guidelines after the election is held.

Flags, badges or insignia of any governmental agency.

Emergency signs required by any governmental agency.

Temporary real estate signs pertaining only to the sale, rental or development of a lot upon which it is displayed. Such signs shall not exceed six (6) square feet for residential property or twenty-four (24) square feet for other property. One (1) sign shall be permitted for each lot and must be removed within ten (10) days following the sale, lease or development of said property.

Banners placed on private property for advertising of a special sales event or grand opening. Such banners shall contain no advertising.

Memorial signs or tablets, names of buildings and date of erection when cut into or attached to any masonry surface or incombustible material, provided the sign does not exceed six (6) square feet in area.

Home occupation signs, non-illuminated, attached to the wall of a dwelling and not exceeding one and one-half (1 ½) square feet in area.

**Subd. 5. Permitted Signs.** The following signs are permitted in the A-1, R-1, R-2, R-MH Districts.

Signs over show windows or doors of non-conforming businesses establishments announcing without display or elaboration only the names and occupation of the proprietor and not to exceed three (3) square feet in height and twenty (20) feet in length.

Bulletin boards for public, charitable or religious institutions not to exceed twenty (20) square feet in an area located on the premises.

Religious uses, public institutions, non-residential and residential development signs not exceeding thirty-two (32) square feet in area. Such identification signs may be wall or ground mounted or combination thereof. A ground sign shall not exceed fifteen (15) feet in height. There may be a second sign if the use abuts two (2) or more streets.

All signs shall be set back a minimum of five (5) feet from property lines and shall not be located within thirty (30) feet of an intersection.

**Subd. 6. Permitted Signs.** PERMITTED SIGNS. The following signs are permitted in the B-1, B-2 and I-1 Districts.

Signs that are placed on the exterior walls of buildings shall not extend more than four (4) inches from a building's wall surface, shall not exceed two hundred (200) square feet in area for any one (1) premises, and shall not exceed thirty (30) feet in height above the average centerline grade of the street it fronts.

Ground and pole signs which do not exceed thirty (30) feet in height above the average centerline street grade, shall meet all yard requirements for the district in which it is located, shall not exceed one hundred (100) square feet on one side nor two hundred (200) square feet on all sides for any one (1) premises.

Window signs that are placed only inside of the commercial buildings, provided not more than fifty percent (50%) of the window is covered.

Projecting signs which provide a minimum undersign clearance of at least ten (10) feet and which do not project more than twenty-four (24) inches over a sidewalk and shall not exceed twenty (20) square feet.

Off-premises advertising signs (billboards) shall only be permitted in the B-1 or I-1 Districts as a conditional use. These signs shall not exceed two hundred (200) square feet in area. Off-premises advertising signs shall meet all setback requirements and shall not be located within one hundred (100) feet of any residential zone, church, school or designated recreation area.

## **SECTION 1014. OFF-STREET PARKING.**

**Subd. 1. Purpose.** It is the purpose of this Section to provide for the regulation of and design standards for off-street parking facilities within the City, to minimize congestion of the public right-of-way and to maximize the safety and general welfare of the public.

**Subd. 2. Regulations.**

A. Scope of Regulations.

No provision of any Section of this Chapter shall be less restrictive than those outlined in this Section. The off-street parking requirements and off-street loading requirements of this subdivision shall apply within all zoning districts, except the B-2, Central Business District.

B. Calculating Space.

Where calculations result in requiring a fractional space, any fraction less than one-half ( $\frac{1}{2}$ ) shall be disregarded and any fraction of one-half ( $\frac{1}{2}$ ) or more shall require one (1) space.

The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the building structure or use times the number of floors, minus ten (10) percent.

Should a building or structure contain two (2) or more types of uses, each should be calculated separately for determining the total off-street parking spaces required.

C. Site Plan.

Except for single family dwellings, all applications for a building or an occupancy permit shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of all off-street parking and loading spaces in compliance with the requirements of this Section. The Site Plan shall include the following information:

Zoning District.

North point and scale.

All adjacent rights-of-way.

The ownership of the entire lot being developed.

Dimensions of the lot and parking spaces.

The owner's name, address and phone number.

Such plan shall be reviewed by the Planning Commission and approved by the City Council, in accordance to the criteria developed in this subdivision.

D. Site Plan Criteria.

Upon review by the Planning Commission and approval by the City

Council, the plan for off-street parking shall meet the following site design standards:

All areas devoted for parking space and driveways shall be surfaced with permanent materials (i.e. bituminous, concrete, etc.). All parking areas shall be designed to control surface runoff to adjacent properties either with curbing or grading techniques. No landscaped areas shall be used for the parking of vehicles.

Any lighting used to illuminate off-street parking areas shall be directed away from abutting property and public right-of-way.

No sign shall be so located as to restrict the sight, orderly operation and traffic movement within any parking area. Only signs necessary for the orderly operation of traffic movement or parking regulation shall be permitted in any parking area. Such signs shall not be considered part of the permitted advertising space and shall be subject to regulations pursuant to Section 15.

All parking lots shall be screened and landscaped from abutting residential uses or districts by a wall, fence or densely-planted compact hedge or tree cover not less than four (4) feet nor more than eight (8) feet in height.

The parking area shall meet the minimum design standards, and number of stalls required under this Section.

E. Reduction of Existing Parking and Loading Spaces.

Parking or loading spaces existing upon the effective date of this Chapter shall not subsequently be reduced below the requirements of this Section.

F. Change of Use or Occupancy of Land or Building.

No change of use or occupancy of land, or of use or occupancy of any building, shall be made until there is furnished sufficient parking and loading spaces as required by this Section.

G. Use of Parking and Loading Space.

Required parking or loading spaces shall not be used for storage of goods or for storage of vehicles or trailers that are inoperable or for sale or rent.

Off-street parking facilities accessory to residential uses shall be utilized

solely for the parking of passenger automobiles and/or one truck not to exceed nine thousand (9,000) pounds gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business establishments.

#### H. Design and Maintenance.

**Drainage and Surfacing:** Driveways shall not exceed a grade of six (6) percent and all parking lots except those for less than four (4) vehicles shall be graded according to a drainage plan which has been approved by the City Engineer. Catch basins, sumps and underground storm sewers may be required.

**Striping:** All lots for five (5) or more vehicles shall have the organization of spaces painted on the surface according to the plan approved by the City.

**Circulation:** Lots shall be so designed that internal circulation shall be available without utilizing the public street.

**Maintenance:** It shall be the joint and several responsibility of the lessee and/or owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking area, striping, landscaping and screening.

**Lighting:** All lighting used to illuminate an off-street parking area shall be shaded or diffused so as to reflect the light away from the adjoining property and away from abutting traffic flow.

#### I. Stall, Aisle, and Driveway Design.

Each parking space shall be not less than nine (9) feet wide and twenty (20) feet in length, exclusive of an adequately designed system of access driveways. Provided, however, that in school parking lots of more than three hundred (300) parking spaces, up to forty percent (40%) of such spaces may be designated and clearly marked as compact car parking spaces. A compact car parking space shall not be less than eight (8) feet wide and eighteen (18) feet in length exclusive of the adequately designed system of access drives. No parking space may be designated as a compact parking space unless the parking space is clearly posted with signs which are reasonably visible even in winter months and which

are approved by the Zoning Administrator.

Except in the case of single-family, two-family, and townhouses, parking areas shall be designed so that circulation between parking aisles or driveways occurs within the designated parking lot and does not depend upon a public street or alley and such design does not require backing into the public street.

Except in the cases of single-family, two-family and townhouses, parking areas shall comply with the following standards:

<b>ANGLE OF PARKING (ALONG CURB)</b>	<b>STALL WIDTH</b>	<b>STALL DEPTH</b>	<b>MIN. DRIVEWAY WIDTH</b>
Zero degrees	9'	22'	12'
30 degrees	9'	19'	12'
45 degrees	9'	21'	13'
60 degrees	9'	22'	18'
90 degrees	9'	19'	24'

No curb cut access shall be located less than forty (40) feet from the intersection of two (2) or more street right-of-ways for residential uses, and sixty (60) feet for commercial and industrial areas. This distance shall be measured from the intersection of lot lines.

Curb cut openings shall be a minimum of five (5) feet from the side property line.

All property shall be entitled to at least one (1) curb cut. Single family uses shall be limited to one (1) curb cut access per property.

All parking spaces shall be served by access aisle or driveway connections to a public right-of-way.

In the B-1 and I-1 Districts, no parking or loading space shall be located within ten (10) feet of any property line which abuts a public street or residential district.

J. Number of Required Parking and Loading Spaces.

The following minimum number of off-street parking and loading spaces shall be provided and maintained:

USE	# OF REQUIRED PARKING SPACES
Single family, two family, townhouse dwelling	2 spaces/unit
Multiple family dwelling	2 free spaces/unit
Boarding house, fraternity house, sorority house	2 spaces/3 persons
Bed & Breakfasts	2 spaces / 3 persons
Elderly housing	½ space/unit
Baseball fields, stadiums	1 space/8 seats
Schools	10 per classroom
Public parks/playgrounds	As per Planning Comm.
Church, theatre, auditorium, gymnasium	1 space/4 seats of main assembly hall
Skating rink, dance hall, public auction house	1space/200 sq. ft. of gross floor area
Miniature golf course, archery range, golf driving range	10 spaces respectively
Hospital	1 space/3 beds PLUS 1 space per 2 employees on maximum shift.
Nursing home, day nurseries, sanitariums, or rest homes	4 spaces PLUS one for each 3 beds
Office buildings, professional offices, banks, animal hospitals	4 spaces PLUS 1 space/ 500 sq. ft over 1000 sq. ft.
Undertaking establishments	1 space/50 sq. ft. of gross floor area PLUS 1 space/ official vehicle
Motels, hotels	1 space/rental room PLUS spaces required for restaurant (see restaurant)

USE	# OF REQUIRED PARKING SPACES
Drive-in establishment and convenience food	1 space/20 sq. ft. of gross floor area, with a minimum of 20 spaces.
Bowling Alley	5 spaces/lane or alley
Retail store and service establishment in B-2 District	1 space/200 sq. ft. of floor area
Retail sales and services with 50% or more of floor area devoted to storage, warehouse and/or industry	1 space/200 sq. ft. of gross floor area devoted to sales or service PLUS 1 space/500 sq. ft. of storage area
Automobile service station (motor fuel station)	4 spaces PLUS 2 spaces for each stall
Restaurants, cafes, private clubs, bars, taverns and nightclubs	1 space/100 sq. ft. of gross floor area of dining and bar area PLUS 1 space/80 sq. ft. of kitchen area
Dance halls	1 space/ 35 sq. ft of gross floor area on dance floor.
Car wash: automatic drive through	10 spaces
Car wash: self-service	2 spaces
Auto repair, bus and taxi terminals, boat and marine sales and repair, bottling company, garden supply store, building material sales	8 spaces PLUS one additional space/800 sq.ft. of floor area over 1,000s.f.

Manufacturing, fabricating, or processing of a product or materials, warehouse, storage or post office	½ space/employee but no less than 1 space/1000 sq. ft. gross floor area PLUS 1 space per company vehicle kept on premises.
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K. Joint Facilities.

The City Council may, after receiving a recommendation from the Planning Commission, approve a Conditional Use Permit for one (1) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business, if the following conditions are satisfactorily met:

The building or use for which the application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities.

The applicant shall show that there is no substantial conflict in the operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.

The provisions of this Chapter are considered and satisfactorily met.

L. Off-Street Loading Facilities.

Loading space required under this Section shall be at least fifty (50) feet long and ten (10) feet wide. The regulations of this Section are not applicable in the "B-2" Central Business District. Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at least ten thousand (10,000) square feet and every lot used for office or research purposes on which there is a building or buildings having a total floor area of at least twenty thousand (20,000) square feet, shall be provided with an off-street loading space. An additional off-street loading space shall be required for lots used for commercial or industrial purposes where the floor area of all buildings exceeds one hundred thousand (100,000) square feet.

**Subd. 3. Exceptions.** There shall be no off-street parking requirements within the "B-2" Central Business District for permitted uses.

**SECTION 1015. GENERAL DISTRICT PROVISIONS.**

**Subd. 1. Purpose.** The performance standards established in this Chapter are designed to encourage a high standard of development and delineate requirements for Planned Unit Developments, mobile home parks, signs, parking and loading and sewage disposal. Before any zoning permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to these standards.

The purpose of this Section is to establish general development standards to assure compatible land uses to prevent blight and deterioration and to enhance the health, safety and general welfare of the City.

**Subd. 2. Dwelling Unit Regulations.**

**Dwelling Unit Restrictions.**

No cellar, basement, garage, tent or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently, except allowed as a conditional use as set forth and regulated by this Chapter.

Basements may be used as living quarters or rooms as a portion of residential dwellings.

Tents, play houses or similar structures may be used for play or recreational purposes.

Existing cellars or basements used as an independent dwelling unit shall have the status of a non-conforming use, subject to the provisions of this Chapter.

No dwelling shall hereafter be erected or altered unless there is direct access to it from a public street.

**Subd. 3. Accessory Buildings.**

In cases where an accessory building is attached to the principal structure,  
it shall be made structurally a part of the principal structure and shall comply in all respects with the requirements of this Chapter applicable to the principal structure. An accessory building, unless attached to and made a part of the principal structure shall not be closer than ten (10) feet to the principal structure.

For the purposes of this Chapter setbacks shall be measured from the property line. Accessory buildings, including decks, may encroach into

the required side and rear yard setbacks within the rear yard of a lot, except, however, that no such encroachment may occur on required side yard setbacks abutting a street in the case of a corner lot. In such cases, the following standards shall apply:

The accessory structure(s) shall not exceed thirty percent (30%) of the rear yard.

All accessory buildings in the R-1 and R-2 Residential Districts shall be setback from all adjoining lots a distance equal to the height of the building, shall be located at least ten (10) feet away from any other building or structure on the same lot and shall not be located within a utility easement or within the front yard required setback.

No detached accessory structure shall be erected or altered so as to encroach in the front yard setback of a lot.

Garages having direct access onto an alley shall be setback twenty (20) feet from the property lot line.

In all other cases, other than those noted within Subsection 2 above, accessory buildings shall conform to setbacks which are imposed within the respective zoning district. In districts where gas stations are allowed, pump islands may be located within a required yard provided they are not less than fifteen (15) feet from any street right-of-way line.

Within the R-1 district no accessory structures, including attached garages, or any combination of accessory structures shall exceed one thousand (1,000) square feet in area. In addition, lot coverage requirements outlined within the respective districts shall be adhered to.

No lot shall have more than two (2) detached accessory structures.

The same or similar quality exterior building materiel shall be used in the accessory building and the principal building.

Except as expressly allowed by conditional use permit, accessory buildings shall comply with the following height limitations and accessory buildings other than garages shall be limited to ten (10) feet in height on all two family and townhouse unit lots:

<u>Zoning District</u>	<u>Maximum Height</u>
R-1	Sixteen (16) feet
R-2	Sixteen (16) feet
B-1	District Limit

B-2  
I-1

District Limit  
District Limit

**Subd. 4. General Building and Yard Regulations.**

A. Purpose:

This Section identifies yard, building type and height requirements in each zoning district.

B. Building Restrictions.

Any person desiring to improve property shall submit to the Zoning Administrator information on the location and dimensions of existing and proposed buildings, location of easements crossing the property encroachments, and any other information which may be necessary to insure conformance to City Chapters. Applicants shall be responsible for locating all property boundaries and providing certification of said property boundaries.

All buildings shall be so placed that they will not obstruct future streets that may be constructed by the City in conformity with existing streets and according to the system and standards employed by the City.

Except in the case of Planned Unit Development and "A-1" Agricultural District, lots exceeding one (1) acre as provided for in this Chapter, not more than one (1) principal building shall be located in a lot. The words "principal building" shall be given their common, ordinary meaning; in case of doubt or on any question or interpretation, the decision of the Zoning Administrator shall be final, subject to the right of appeal to the Planning Commission and City Council.

Mobile homes, buildings, tents or other structures temporarily maintained by an individual or company on the premises associated with the work project and used exclusively to house labor or other personnel occupied in such work project shall be exempt from the requirements of this Chapter. Such mobile homes, buildings, tents or other structures shall be removed within thirty (30) days from the completion of the work project.

C. Building Type and Construction.

No galvanized or unfinished steel, galvalum or unfinished aluminum buildings (walls or roofs) (except those specifically intended to have a corrosive designed finish such as corten steel) shall be permitted in any zoning district except in association with farming operations or industrial uses.

Residential dwellings in the R-1, R-2 and R-MH Districts shall have a minimum roof pitch of 3:12, and each roof shall be shingled or feature approved materials. Residential dwelling structures in the R-1 and R-2 Districts shall have a minimum of seventy percent (70%) of the structure a minimum width of twenty-two (22) feet. All residential dwelling structures in the R-1 and R-2 Districts shall be placed on permanent foundations of wood or concrete.

Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety and general welfare.

Exterior building finishes shall consist of materials comparable in grade and quality to the following:

Brick.

Natural stone.

Decorative concrete block.

Cast in place concrete or pre-cast concrete panels.

Wood.

Curtain wall panels of steel, fiberglass and aluminum provided such panels are factory fabricated and finished with a durable, non-fade surface and their fasteners are of a corrosion resistant design.

Glass curtain wall panels.

Stucco.

Vinyl, aluminum, colored steel, no-maintenance type siding.

#### D. Building Height.

Building heights in excess of those standards contained in the district provisions may be permitted through a conditional use permit, provided that:

The site is capable of accommodating the increased intensity of use.

The use does not negatively impact traffic flow or capacity of surrounding public rights of way.

For each additional story over three (3) stories or for each additional ten (10) feet above forty (40) feet, front and side

yard setback requirements shall be increased by five (5) percent.

Applicants proposing structures constructed exclusively for  
or  
hosting telecommunications equipment shall provide written verification of approval from the Federal Communications Commission and the Federal Aviation Administration to the extent required by those agencies.

- a. The City shall require an applicant who proposes the construction of any structure with a height equal to or greater than two hundred (200) feet above ground level; or the alteration of any structure to a height which is equal to or greater than two hundred (200) feet above ground level to notify the Minnesota Department of Transportation Commissioner and the Federal Aviation Administration Commissioner of said proposal at least thirty (30) days prior to the City Council's consideration of said request if notice is required by those agencies. Should notice be required by those agencies the applicant shall submit evidence to the City verifying the Minnesota Department of Transportation and the Federal Aviation Administration have been duly notified of said proposed structure prior to City Council approval.

Building height limits established for districts shall not apply to the following providing said structures do not exceed two hundred (200) feet above ground level:

- Cooling Towers.
- Elevator penthouses.
- Flag poles.
- Monuments.
- Wind energy conversion system towers.

Building height limits established for districts shall not apply to the following provided a conditional use permit is issued, in accordance with Section 18, Subdivision 10.

- Belfries.
- Chimneys or flues.
- Church Spires.
- Cupolas and domes which do not contain usable space.
- Parapet walls extending not more than three (3) feet above the limiting height of the building.
- Poles, towers, and other structures for essential services.

Necessary mechanical and electrical appurtenances.  
Farming buildings.

E. Yards.

No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Chapter, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.

The following shall not be considered as encroachments on yard setback requirements:

Chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like provided they do not project more than two (2) feet into a yard.

Terraces, steps, uncovered porches, stoops, fire escapes or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than five (5) feet from any lot line.

In rear yards: recreational and laundry drying equipment, arbors, and trellises, detached outdoor living rooms, and air conditioning or heating equipment, provided they are at a distance of five (5) feet from the rear lot line.

A one-story entrance for a detached single family or duplex dwelling may extend into the front yard setback not exceeding five (5) feet.

Where adjacent structures have front yard setbacks different from those required, the minimum front yard setback shall be the average setback of such adjacent structures. If only one adjacent lot is occupied by a structure, the minimum front yard shall be the average of the required setbacks and the setback of such adjacent structure. In no case shall the setback requirement exceed the minimum established for the respective zoning district.

Through lots or lots in which a public right-of-way is located on two (2) or more sides, the front yard setback requirements shall be provided on all street sides.

**Subd. 5. Outdoor Storage and Refuse.**

A. Outside storage: Residential, Commercial and Industrial Uses.

All outside storage of materials and equipment for residential uses (excluding farms) shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:

Clothes line pole and wire.

Not more than three (3) recreational vehicles and equipment.  
Construction and landscaping material currently being used on the premises.

On and off street parking of currently registered and operable passenger vehicles and trucks.

Lawn furniture or furniture used and constructed explicitly for outdoor use.

Rear or side yard exterior storage of firewood for the purpose of consumption only by the person(s) on whose property it is stored.

Except as allowed by district use provisions, outside storage of equipment, materials and inventory as a principal or accessory use for commercial and industrial uses shall require a conditional use permit subject to the provisions of Section 18 of this Chapter and all non-residential outside storage shall conform to the following conditions:

The area occupied is not within a required front or required side yard.

The storage area is totally fenced, fully screened and landscaped according to a plan approved by the Zoning Administrator.

If abutting a Residential District or a residential use, screening and landscaping is provided according to a plan approved by the Zoning Administrator.

The storage area is grassed or surfaced to control dust.

Any/all lighting shall be directed away from the public right-of-way and from neighboring residences.

#### B. Refuse.

All lots within all zoning districts shall be maintained in a neat and orderly manner. No rubbish, salvage materials, junk or miscellaneous refuse shall be openly stored or kept in the open, when the same is construed by the City Council to be a menace or nuisance to the public health, safety or general welfare of the City, or to have a depressing influence upon property values in the area.

#### C. Waste Materials.

Waste materials are to be picked up and disposed of in accordance with any and all city standards applicable to refuse/waste materials.

**D. Refuse Ownership.**

Unless an authorized special collection agreement is made, the entity generating the waste shall at all times retain title and ownership of any and all waste materials, including but not limited to, excluded waste materials (i.e. industrial, infectious and/or hazardous waste). The entity retaining title and ownership of any/all waste materials, including excluded waste material shall remain responsible and liable for said waste material. The entity generating any/all refuse, including but not limited to, excluded waste materials, shall remain responsible at all times for properly disposing of the refuse.

Excluded waste materials must be disposed of in a safe and appropriate manner in accordance with local, state and federal law. Release of excluded waste materials to public or independent sewage treatment systems, the environment or the solid waste stream is strictly prohibited.

The Disposal Service shall, upon collection, immediately assume title to and liability for solid waste materials, recyclables and demolition debris.

**Subd. 6. Fencing, Screening, and Landscaping.**

~~No fence shall exceed four (4) feet in the front yard or six (6) feet in the rear yard in height as measured from the average point between the highest and lowest grade, except security fencing which shall not exceed eight (8) feet including barbed wire toppings.~~

No fence, screen or structure which obstructs view shall be located within thirty (30) feet of any front lot line, and twenty five (25) feet of any corner formed by the intersection of street or railroad right-of-ways as measured from the intersecting property lines.

Except as provided in Subdivision 6 (A) 2, fences, hedges or shrubs less than four (4) feet in height may be located on any part of the lot.

In all zoning districts, all usable open space as defined by this Chapter shall be planted and maintained in grass, sodding, shrubs or other suitable vegetation or treatment, unless devoted to drives, sidewalks or patios.

All screening required by the provisions of this Chapter shall consist of either:

A green belt planting strip consisting of vegetative cover of

sufficient width and density to provide an effective screen or A fence constructed of masonry, brick, wood or steel which is compatible with surrounding structures and buildings.

Except as provided in this Chapter, fences shall be set back at least three (3) feet from the lot lines or, upon mutual consent of the abutting property owner(s), they may be placed closer to or along the lot line.

**Subd. 7. Moving of Buildings.** Any building or structure which has been wholly or partially erected on any premises, located either within or outside of the City shall not be moved to or placed upon any other premises in the City until a permit to use such building or structure has been approved by the City. Any such building shall conform to all the provisions of this Chapter, in the same manner as a new building or structure.

**Subd. 8. Vision Clearance at Corners, Curb Cuts and Railroad Crossings.** Notwithstanding any part of this Chapter or any permit or variance granted, no structure, vehicle, vegetation, fence, sign, building or any obstacle or any portion thereof, shall be placed or retained in such a manner to constitute a traffic hazard or obstruct the vision clearance of corners, curb cuts or railroad crossings.

**Subd. 9. Lighting.** Any lighting used to illuminate an off-street parking area, sign or structure shall be arranged so as to deflect light away from any adjoining residential properties or uses from the public streets.

**Subd. 10. Noise.** Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity, except for noise from agricultural sources in the A-1, Agricultural district generated by agricultural use shall be exempt.

**Subd. 11. Odors.** Any use established, enlarged or remodeled shall be so operated as to prevent the emission of odorous matter of such quantity as to be readily detectable at any point beyond the lot line of the site on which such use is located. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a zoning permit, except odors from agricultural sources.

**Subd. 12. Reserved.** Commercial Feedlots.

**Subd. 13. Satellite Dishes and Other Dishes.**

Any satellite dishes hereafter erected shall conform to the provisions of this Section and any other Chapter or regulation of the City.

All dish antennas over one (1) meter (39.4 inches) shall be prohibited from roof tops unless it is determined by the City Council that placement within side or rear yards is impractical.

Satellite dishes and other dishes shall not be located in front yards.

No satellite dish or other dish shall be located within ten (10) feet of any rear lot or side lot line in any residential district.

A limit of two (2) such structures shall exist at any one (1) time on any residential zoned and used lot or parcel except that satellite dishes exceeding one (1) meter in width shall be limited to one (1) per residential lot or parcel.

The applicant shall be responsible for any required license by any federal, state or local agency.

**Subd. 14. Residential Pools and Spas.**

A. Definitions.

Residential swimming pools shall be defined as any constructed pool, permanent or portable, which is intended for non-commercial use as a swimming pool by the owner's family and their guests and which is over twenty-four (24) inches in depth and has a surface area exceeding two hundred (200) square feet.

Spa shall be defined as a unit primarily designed for therapeutic use which is not drained, cleaned or refilled for each individual. It may be included but not limited to hydrojet circulation, hot water, cold water mineral baths, air induction bubbles or any combination thereof. Industry terminology for a spa includes, but is not limited to, therapeutic pool, hydrotherapy pool, whirlpool, hot spa, etc.

B. Construction.

Utility Lines. Pools and spas shall not be located beneath utility lines or over underground utility lines of any type.

Setback. No person shall build, situate or install a pool or spa within ten (10) feet of any side or rear lot line, nor within six (6) feet of any principal structure nor within any required front yard.

Portable Fences. While being constructed, the pool or spa must be fenced with a portable fence, such as snow fence, of not less than four (4) feet in height.

C. Fencing.

Minimum Height. All outdoor pools hereafter constructed shall be completely enclosed by a fence or wall of the non-climbing type so as to be impenetrable by toddlers, afford no external handholds and a minimum of four (4) feet in height.

Self Closing. All outdoor fence openings or outdoor points of entry into the pool area shall be equipped with self-closing and self-latching devices. The openings between the bottom of the fence and the ground or other surface shall not be more than three (3) inches.

Latchable Cover. All outdoor spas shall have either a fence as described in C(1) and C(2) or a latchable cover. The cover shall be constructed of a material impenetrable by toddlers.

D. Permits.

No person shall construct, alter or renovate a pool or spa without a zoning permit.

**Subd. 15. Land Reclamation and Mining.**

A. Land Reclamation.

Under this Chapter, land reclamation is the reclaiming of land by depositing of materials so as to elevate the grade. All land reclamation shall be controlled under the provisions of the Zoning Chapter, and shall meet the following standards:

The smallest amount of bare ground is exposed for as short a time as feasible.

Temporary ground cover is used and permanent ground cover, such as sod, is planted.

Methods to prevent erosion and trap sediment are employed.

Fill is stabilized to accepted engineering standards.

Final slopes for cut slopes should be a maximum of 1:1, or one hundred percent (100%); fill slope 3:1 or thirty percent (30%); and grade or construction slope 5:1 or twenty percent (20%).

## B. Mining.

The extraction of sand, gravel, or other material from the land in the total amount of four hundred (400) cubic yards or more and removal thereof from the site without processing shall be defined as mining. In all districts, the conduct of mining shall be permitted only upon issuance of a Conditional Use Permit. Such permit shall include, as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted, and the route of trucks moving to and from the site.

**Subd. 16. Administrative Standards.** Whenever, in the course of administration of any enforcement of this Chapter, it is necessary or desirable to make any administrative decision, then, unless other standards are provided within this Chapter, the decisions shall be made so that the result will be consistent with the intent and purpose of this Chapter.

**Subd. 17. Compliance.** All uses shall comply with all federal, state and local pollution and nuisance laws and regulations, including, but not limited to, glare, smoke, dust, odors and noise. The burden of proof for compliance of appropriate performance standards shall lie with the applicant.

## **SECTION 1016. ADMINISTRATION.**

**Subd. 1. Purpose.** The purpose of this section is to outline administration of this Chapter and establish procedures for non-conformances, exceptions, variances, conditional use permits and duties of administrating officers and commission.

### **Subd. 2. Application.**

#### **Application of this Chapter:**

In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.

Where the conditions imposed by any provision of this Chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, Chapter, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

Except as in this Chapter specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be

used for any purpose or in any manner which is not in conformity with this Chapter.

**Subd. 3. Existing Lots.**

A lot or parcel of land for which a deed, recorded contract for deed or other legal conveyance has been executed prior to the effective date of this Chapter shall be deemed a buildable lot provided it can meet the minimum setback requirements in the zoning district where it is located.

**Subd. 4. Non-Conformance.**

A. Non-Conforming Uses and Structures:

Any structure or use existing upon the effective date of the adoption of this Chapter and which does not conform to the provisions of the Chapter may be continued subject to the following conditions:

No such use shall be expanded, reconstructed or enlarged except in conformity with the provisions of this Chapter.

If a non-conforming use is discontinued for a period of twelve (12) months, further use of the structures or property shall conform to this Chapter.

If a non-conforming structure is destroyed by any cause, to an extent exceeding fifty percent (50%) of its fair market value as indicated by the records of the County Assessor, a future structure on the site shall conform to this Chapter.

Alterations may be made to a building containing lawful non-conforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building. A dwelling may not, however, be demolished and a new dwelling constructed unless the new dwelling is in full compliance with this Chapter.

Non-conforming single family dwelling units and developed substandard single family lots may be expanded to improve livability as a conditional use provided that the non-conformity is not increased.

Nothing in this Chapter shall prevent the placing of a structure in safe condition providing the necessary repairs shall not constitute more than fifty percent (50%) of fair market value of such structure as determined by the County Assessor.

No non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this Chapter adoption unless such movement shall bring the non-conformance substantially closer to compliance with the requirements of this Chapter.

When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.

Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

#### B. Non-Conforming Lots of Record.

A single-family dwelling and customary accessory building, notwithstanding limitations imposed by other provisions of this Chapter, may be erected in any district in which single-family dwellings are permitted on any single lot of record at the effective date of adoption of or amendment to this Chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. The provisions shall apply even though such lot fails to meet the zoning requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

If, in a group of two (2) or more lots under the same ownership, any individual lot does not meet the area and width requirements of this Chapter, the lot must not be considered as a separate parcel or land for the purpose of sale or development. The lot must be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the area and width requirements of this Chapter.

Variances of area, width and yard requirements shall be obtained only in accordance with Section 18, Subdivision 11 of this Chapter.

#### C. Non-Conforming Signs.

Signs existing on the effective date of this Chapter which do not conform to the regulations set forth in this Chapter shall become a non-conforming use. Business signs on the premises of a non-conforming building or use may be continued, however, such signs shall not be increased in number, area, height or illumination. No sign erected before the passage of this Chapter shall be rebuilt, altered or moved to a new location on the affected property without

being brought into compliance with the requirements of this Chapter.

**Subd. 5. Enforcement Officer.** The governing body of the City of Minnesota Lake shall appoint a Zoning Administrator whose term of office shall terminate at the pleasure of the governing body. The Zoning Administrator shall enforce this Chapter and shall perform the following duties:

Issue zoning, sewage and other permits and make and maintain records thereof. Conduct inspections of buildings and use of land to determine compliance with the terms of this Chapter.

Maintain permanent and current records of this Chapter, including, but not limited to: all maps, amendments and special uses, variances, appeals and applications therefore.

Ensure that the appropriate documents are filed with the County Recorder or other appropriate official as required by law.

Receive, file and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.

Institute, in the name of the City, any appropriate actions or proceedings against a violator as provided for.

Serve as an ex-officio non-voting member of the Planning Commission and secretary to the Planning commission and Board of Adjustment.

**Subd. 6. Board of Adjustment.** The City Council of the City of Minnesota Lake shall, through the passing of an Chapter, provide for the establishment of a Board of Adjustment. The Board of Adjustment shall be the Planning Commission. The members of the Board of Adjustment may be paid their necessary expenses in attending the meetings of the Board and in the conduct of the business of the Board. The Board of Adjustments shall elect a chairperson and vice-chairperson from among its members and the Zoning Administrator shall serve as secretary.

It shall adopt rules for the transaction of its business and such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The Board shall provide a public record of its proceedings, which shall include the minutes of its meeting, its findings and the action taken on each matter heard by it, including the final order. The meeting of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify.

A majority vote of two-thirds of the full Board of Adjustment shall be required to reverse any decision of an administrative officer in the interpretation of this Chapter. An appeal from the ruling of an administrative officer of the City made by the proper owner or his agent within thirty (30) days after the making of the order appealed from shall be considered by the Board of Adjustment. The procedure for making such an appeal shall be as follows: The property owner or his agent shall file with the Zoning Administrator a notice of appeal stating the specific grounds upon which the appeal is made. The Board of Adjustments shall make its decision by resolution within sixty (60) days and a copy of the resolution shall be mailed to the applicant by the Zoning Administrator. All decisions by the Board of Adjustment shall be

final.

**Subd. 7. Planning Commission.** The City Council shall through the passing of an Chapter provide for the establishment of a Planning Commission. The Planning Commission shall consist of five (5) members. Of the five (5) Planning Commission members, two (2) shall be from the City Council, one (1) who may be the Mayor. The members of the City Council shall serve on the Planning Commission for their respective elected terms of office on the council. The three (3) other members of the Planning Commission shall be citizens of the City who are appointed by the City Council. Every attempt shall be made to obtain a cross section of the City in appointing members to the Commission.

The Planning Commission shall provide assistance to the City Council and Zoning Administrator in administration of this Chapter, and the recommendation of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings and make recommendations to the City Council on all applications for zoning amendments and conditional use permits.

The Officers of the Planning Commission shall be elected by the members of the Planning Commission at a regular meeting thereof in January of each year. The officers shall consist of a Chairperson, a Vice-Chairperson, and a Secretary-Treasurer. The Chairperson shall preside at all meetings and hearings of the Planning Commission and shall have the duties normally conferred by parliamentary usage of such officers as well as any other duties specified within this Chapter. The Vice-Chairperson shall act for the Chairperson in his/her absence. The Secretary/Treasurer shall be given the duties as may be assigned by the Planning Commission. Vacancies in office of the officers of the Planning Commission shall be filled immediately by the same procedure.

A quorum for any meeting or hearing of the Planning Commission shall be a majority of the voting members of the Commission.

The Planning Commission may set such rules and procedures as are necessary for the orderly conduct of its business. Rules and procedures not otherwise adopted or not covered by applicable law shall be governed by Roberts Rules of Order, Revised, as may be necessary for the proper conduct of the business of the Planning Commission.

The members of the Planning Commission may receive such compensation for per diem and expenses as may be allowed by the City Council.

**Subd. 8. City Council.** The City Council shall act upon all questions as they may arise in the administration of this Chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with enforcing the Chapter. Such appeal may be taken by any person, firm, or corporation aggrieved or by any officer, department, board or bureau of a town, municipality,

county or state.

The City Council may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The council shall make written findings of fact and keep appropriate minutes of its meetings. The reasons for the Council's decisions may be stated. The decision of such Council shall be final. However, any person having an interest affected by such decision shall have the right to appeal to district court in the county in which the land is located on questions of law and fact.

### **Subd. 9. Zoning Amendments.**

Criteria for Granting Amendments.

The City Council may adopt amendments to the zoning Chapter and the zoning map in relation to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Policies Plan or changes in conditions in the City.

Procedure:

An amendment to the text of the Chapter or zoning may be initiated by the City Council, the Planning Commission or by application of a property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Council until it has received the Planning Commission's recommendations. Individuals wishing to initiate an amendment to the zoning Chapter shall complete a zoning amendment application form and submit it to the Zoning Administrator.

A public hearing on the rezoning application shall be held by the Planning Commission within thirty (30) days after the request for the zoning amendment has been received. Legal notice concerning official action pursuant to this Section shall be as follows:

A notification of the date, time and place of the hearing shall be published in the municipality's official newspaper at least ten (10) days before the hearing.

In addition, persons who own property situated wholly or partly within three hundred fifty (350) feet of the affected parcel or parcels shall receive similar, individual notifications by mail.

The City Council must take action on the application within sixty (60) days

following receipt of a complete application. The person making the application shall be notified of the action taken. The amendment shall be effective only if three-fourths (3/4) of all members of the Council concur with its passage. The City Council shall maintain records of amendments to the text and zoning map of the Chapter. Amendments shall be filed with the County Recorder.

No application of a property owner for an amendment to the text of the Chapter or the zoning map shall be considered by the Planning Commission within the one (1) year period following a denial of such request, except the Planning Commission may permit a new application, if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

Fees. To defray administrative costs of processing requests for an amendment to this Chapter, the applicable fee shall be paid by the petitioner. The applicable fee for a Zoning Chapter Amendment shall be established by the City Council.

**Subd. 10. Conditional Use Permits.**

A. Criteria for granting conditional use permits.

In granting a conditional use permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety and general welfare of occupants of surrounding lands. Among other things, the City Council may make the following findings where applicable:

That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

That adequate measures have been or will be taken to provide or control

offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

The developer shall submit a time schedule for completion of the project.

The use, in the opinion of the City Council, is reasonably related to the overall needs of the City and to the existing land use.

The use is consistent with the purposes of the zoning code and the purposes of the zoning district in which the applicant intends to locate the proposed use.

The use is not in conflict with the Policies Plan of the City.

The use will not cause traffic hazard or congestion.

Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.

Provide proof of ownership to Zoning Officer.

B. Additional Conditions:

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this Chapter, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the City as a whole. The conditions may include, but are not limited to, the following:

Increasing the required lot size or yard dimension.

Limiting the height, size or location of the buildings.

Controlling the location and number of vehicle access points.

Increasing the street width.

Increasing the number of required off-street parking spaces.

Limiting the number, size, location or lighting of signs.

Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.

Designating sites for open space.

C. Procedures.

1. The person applying for a Conditional Use Permit shall fill out and submit to the Zoning Administrator a Conditional Use application form.
2. Information Requirement: The information required for all conditional use permits generally consists of the following items, and shall be submitted when requested by the City.

Site Development Plan.

Location of all buildings on lots including both existing and proposed structures.

Location of all adjacent buildings located within three hundred fifty (350) feet of the exterior boundaries of the property in question.

Location and number of existing and proposed parking spaces.

Vehicular circulation.

Architectural elevations (type and materials used in all external surfaces.

Location and type of all proposed lights.

Curb cuts, driveways, number of parking spaces.

Dimension Plan.

Lot dimensions and area.

Dimensions of proposed and existing structures.

“Typical” floor plan and “Typical” room plan.

Setbacks of all buildings located on property in question.

Proposed setbacks.

Sanitary sewer and water plan with estimated use per day.

Grading Plan.

Existing contour.

Proposed grading elevations.

Drainage configuration.

Storm sewer catch basins and invert elevations.

Spot elevations.

Proposed road profile.

Landscape Plan.

Location of all existing trees, type, diameter and which trees will be removed.

Location, type and diameter of all proposed plantings.

Location and material used for all screening devices.

Legal description of property under consideration.

Proof of Ownership of the land for which a conditional use permit is requested.

3. The Zoning Administrator shall refer the application to the Planning Commission for review.
4. The Planning Commission shall hold a public hearing on the proposal. Legal notice concerning official action pursuant to this Section shall be as follows:

A notification of the date, time and place of the hearing shall be published in the municipality's official newspaper at least ten (10) days before the hearing.

In addition persons who own property situated wholly or partly within three hundred fifty (350) feet of the affected parcel or parcels shall receive similar, individual notifications by mail.

5. The petitioner or his representative may appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
6. The report of the Planning Commission shall be placed on the agenda of the City Council at its next regular meeting following referral from the Planning.

Commission, but not later than sixty (60) days after the applicant has submitted the application.

7. The City Council must take action on the application within sixty days after receipt of a complete application. The City Council, at its discretion, may hold an additional public hearing on the Conditional Use Permit, the City Council may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare, and such conditions may include a time limit for the use to exist or operate.

D. Re-Application. No application for a Conditional Use Permit shall be resubmitted for a period of six (6) months from the date of said order of denial.

E. Periodic Review. If a time limit or periodic review is included as a condition by which a Conditional Use Permit is granted, the Conditional use Permit

may be reviewed a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearings, and the owner of land having a Conditional Use Permit shall not be required to pay a fee for said review. A public hearing for annual review of Condition Use Permit may be granted at the discretion of the City Council.

- F. Compliance. In the event that the applicant violates any of the conditions set forth in this Permit, the City Council shall have the authority to revoke the Conditional Use Permit.
- G. Expiration. Conditional Use Permits shall expire if they have not been initiated within one (1) year of date of issuance.
- H. Records. A record and appropriate minutes shall be prepared by the Planning Commission from the public hearing on the Conditional Use Permit application. Specific findings of fact shall be made in addition to the recommendations of the Planning Commission.
- I. Fees. To defray administrative costs for processing a Conditional Use Permit, the applicable fee shall be paid by the applicant. The applicable fee shall be set by the City Council.

**Subd. 11. Variances.**

- A. Criteria for granting variances.

A variance to the provision of the Zoning Chapter may be issued to provide relief to the landowner in those zones where the Chapter imposes undue hardship or practical difficulties to the property owner in the use of his land. No use variances may be issued. A variance may be granted only in the event that the following circumstances exist:

- Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owners of property since enactment of this Chapter have had no control;
- That literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter;
- That the special conditions or circumstances do not result from the actions of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to owners of

other lands, structures or buildings in the same district;  
The variance requested is the minimum variance which would alleviate the hardship; and  
The variance would not be materially detrimental to the purposes of this Chapter, or to property in the same zone.

NOTE: Economic conditions alone shall not be considered a hardship.

B. Procedure:

The person applying for a variance shall fill out and submit to the Zoning Administrator a variance request form containing the following information:

- Description of the site (legal and address).
- Site plan showing parcel and building dimensions.
- Location of all buildings and their square footage measurements.
- Curb cuts, driveways, sidewalks, parking spaces and off-street loading areas.
- Landscape and screening plans.
- Water, sanitary sewer and storm water plans.
- Any additional information reasonably requested by the Planning Commission.

If the work will not be completed in one (1) year, the applicant shall submit a time schedule for completion of the work.

The Zoning Administrator shall refer the application to the Planning Commission for review.

The Planning Commission shall hold a public hearing on the proposal. Legal notice concerning official action pursuant to this Section shall be as follows:

A notification of the date, time and place of the hearing shall be published in the municipality's official newspaper at least ten (10) days before the hearing.

In addition, persons who own property situated wholly or partly within three hundred fifty (350) feet of the affected parcel or parcels shall receive similar, individual notifications by mail.

The petitioner or his representative shall appear before the Planning Commission in order to answer questions concerning the proposed variance.

The Planning Commission shall make findings of fact and recommend approval or denial of the request. The Planning Commission must take action on the application within sixty (60) days after the first regular meeting at which the variance request was considered by the Commission. The Commission's

recommendation, shall be presented to the Council.

The City Council shall not grant a variance until they have received a recommendation from the Planning Commission or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.

Upon receiving a recommendation from the Planning Commission the City Clerk or Zoning Administrator shall place the recommendation on the agenda for the next regular City Council meeting. Such recommendations shall be made a part of the permanent written record of the City Council meeting.

The City Council shall review the application and may at its option conduct a public hearing on the request.

The council shall make finding of fact and approve or deny a request for variance within sixty (60) days after receipt of the complete application.

A variance of this Chapter shall be simple majority vote of the Council.

If it grants the variance, the Council may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

#### C. Lapse of Variance.

Variance permits shall expire if they have not been installed within one (1) year after the date of issuance.

No variance shall be granted which would allow any use that is prohibited in the zoning district in which the subject property is located.

#### D. Fees.

To defray the administrative costs of processing requests for variances, the applicable fee shall be paid by the applicant. The applicable fee is in addition to the regular zoning permit. Fees shall be established by the City Council.

### **Subd. 12. Zoning Permits.**

For the purposes of enforcing this Chapter, a zoning permit shall be required of all persons intending to erect, expand or move any building.

Persons requesting a zoning permit shall fill out a zoning permit form available from the Zoning Administrator or City Clerk. A site plan must be submitted by the applicant. Such site plan shall show the proposed location and arrangement of the building or buildings on the site, the parking spaces

required, proposed landscaping, all special requirements such as fencing, drainage, proposed lighting, methods of ingress and egress, trash enclosures and whatever other information that the Zoning Administrator or Planning Commission may from time to time require. No building permit shall be approved unless said site plan conforms to the conditions listed within this Chapter and the use is consistent with the district.

The City Council shall set the fees from time to time for all zoning permits, sewer permits, variance applications, conditional use applications, pumping permits, installer's permits, zoning change applications, mobile home park applications and subdivision plats.

If the proposed development involves a zoning amendment, variance or conditional use permit, the application, together with a zoning permit, shall be submitted either to the Planning Commission or the Board of Adjustment for review and appropriate action according to the procedures set forth in this Chapter.

Lot Survey Requirements. In such cases where fences are being erected on property lines or structures are being enlarged within questionable distances of the applicable setbacks in districts, the Minnesota Lake Planning Commission may require the applicant (at the applicant's expense) to have the lot surveyed and staked in order to insure compliance with the regulations established by the City.

Zoning Permits shall expire one (1) year after the date of issuance. All exterior construction and landscaping must be completed within one (1) year after the date of issuance except permanent surfacing of private driveways must be completed within five (5) years from the date of the initial permit issuance.

## **SECTION 1017. ENFORCEMENT.**

### **Subd. 1. Violations and Penalties.**

#### **A. Violations.**

The violation of any provision of this Chapter or the violation of the conditions or provisions of any permit issued pursuant to this Chapter shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to a fine or imprisonment for a term not to exceed ninety (90) days or both.

In cases where a building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land

is used in violation of this Chapter, the Zoning Administrator, in addition to other remedies may institute any proper action or proceedings in the name of the City. The Zoning Administrator shall hereby have the power of a police officer to prevent unlawful erection, construction, repair, conversion, maintenance or use to restrain, correct or abate such violation to prevent any illegal act, conduct, business or use in or about said premises. It shall be the duty of the City Attorney's Office to institute action.

**B. Penalties.**

Unless otherwise provided, each act of violation and every day on which such violation occurs or continues constitute a separate offense.

**Application to City Personnel:** The failure of any officer or employee of the City to perform any official duty imposed by this Chapter shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

**Equitable Release:** In the event of a violation or the threatened violation of any provision of this Chapter or any provision or condition of a permit issued pursuant to this Chapter, the City in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violation.

**SECTION 1018. SEPARABILITY.**

**Subd. 1. Separability.** Every Section, provision or part of this Chapter or any permit issued pursuant to this Chapter, is declared separable from every other Section, provision or part thereof to the extent that if any Section, provision or part of this Chapter or any permit issued pursuant to this Chapter shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision or part thereof.

**Subd. 2. Supremacy.** When any condition imposed by any provision of this Chapter on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other City Chapter or regulation, the more restrictive conditions shall prevail.

This Chapter is not intended to abrogate any easements, restrictions, covenants, relating to the use of land or imposed on lands within the city by private declaration or agreement, but where the provisions of this Chapter are more restrictive than any such easement, restriction or covenant or the provision of any private agreement, the provisions of this Chapter shall prevail.