CODIFIER: **Robert Vose**
**Kennedy & Graven, Minneapolis, Minnesota**
**City of Pine Island Staff**

**NOTICE TO USER**

This volume contains all City ordinances in effect

**EXCEPT**

None

For total accuracy the user should inquire of the City Administrative Offices as to ordinances not included

**CITY OF PINE ISLAND, MINNESOTA**

**(1-22-07)**

## FOREWORD

This book contains a codification of the ordinances of the City of Pine Island, Minnesota, pursuant to authority granted the Council by Minnesota Statutes, Section 415.021. It is known and should be cited as the "City Code".

The ordinances of the City were previously codified in 1980 but over the years, as the number of ordinances increased with the growth of the City. And with changing times, the City Council determined that a complete and detailed re-codification was essential in order, to maintain knowledge as to the current law. In this codification most of the original ordinances have lost their identity and have been supplemented by other essential legislative enactments. Certain ordinances retain their number and effective dates because of the nature of the subject matter contained therein.

This codification, arrangement and format seek to facilitate keeping the City Code up-to-date and the amending procedure less cumbersome and expensive. A complete codification of the proportions desired is a difficult and lengthy task, but the effort will be well-rewarded if it is found that the City Code accomplishes (1) the elimination of repetition and non-essentials; (2) easy revision incorporating each new ordinance or amendment; (3) comprehensiveness; and, (4) the ease of locating a particular subject or provision.

The reader will find in this book an Analysis followed by a full text of the individual Chapters of the City Code with a Sub-Analysis at the beginning of each Chapter. This physical layout is designed to make local law more accessible to laypersons for it is closest to them and touches their lives every day. The City Code is dedicated to this purpose.


| | |
|---|---|
| MAYOR: | **Paul Perry** |
| COUNCIL: | **Jayne Krause**<br>**Grant Friese**<br>**Mike Lunde**<br>**Rick Keane** |
| CITY ADMINISTRATOR: | **Abraham G. Algadi** |
| CITY ATTORNEY: | **Robert Vose**<br>**Kennedy & Graven** |


(1-22-07)

ANALYSIS


| CHAPTER | TITLE |
|---|---|
| 1 | GENERAL PROVISIONS AND DEFINITIONS APPLICABLE TO THE ENTIRE CITY CODE INCLUDING PENALTY FOR VIOLATION |
| 2 | ADMINISTRATION AND GENERAL GOVERNMENT |
| 3 | MUNICIPAL UTILITIES - RULES AND REGULATIONS,RATES, CHARGES AND COLLECTIONS |
| 4 | CONSTRUCTION LICENSING, PERMITS AND REGULATION |
| 5 | ALCOHOLIC BEVERAGES LICENSING AND REGULATION |
| 6 | OTHER BUSINESS REGULATION AND LICENSING |
| 7 | STREETS AND SIDEWALKS GENERALLY |
| 8 | TRAFFIC REGULATIONS |
| 9 | PARKING REGULATIONS |
| 10 | PUBLIC PROTECTION, CRIMES AND OFFENSES |
| 11 | LAND USE REGULATION (ZONING) |
| 12 | SUBDIVISION REGULATIONS (PLATTING) |
| 13-19 | RESERVED |
| 20 | LISTING OF UNCODED ORDINANCES IN EFFECT |

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|---|---|
| MAYOR: | **Rod Steele** |
| COUNCIL: | **Randy Bates**<br>**Erik Diskerud**<br>**Nick Novak**<br>**Gerald Vettel** |
| CITY ATTORNEY: | **Robert Vose**<br>**Kennedy & Graven, Chartered** |

(02-27-13)

## ANALYSIS


| CHAPTER | TITLE |
|---|---|
| 1 | GENERAL PROVISIONS AND DEFINITIONS APPLICABLE TO THE ENTIRE CITY CODE INCLUDING PENALTY FOR VIOLATION |
| 2 | ADMINISTRATION AND GENERAL GOVERNMENT |
| 3 | MUNICIPAL UTILITIES - RULES AND REGULATIONS,RATES, CHARGES AND COLLECTIONS |
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(1-22-07)

## SUB-ANALYSIS

| | Title |
|---|---|
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| Section | |
| 1.01 | Application |
| 1.02 | Definitions |
| 1.03 | Violation a Misdemeanor or a Petty Misdemeanor |
| 1.04 | Otherwise Unlawful |
| 1.05 | Severability |
| 1.06 | Payment Into City Treasury of Fines And Penalties |
| 1.07 | Meanings |
| 1.08 | Citation |
| 1.09 | Penalties for Each Offense |
| 1.10 | Titles |
| 1.11 | Reference to a Public Official |
| 1.12-1.99 | Reserved |

# CHAPTER 1 GENERAL PROVISIONS AND DEFINITIONS APPLICABLE TO THE ENTIRE CITY CODE INCLUDING PENALTY FOR VIOLATION

**SEC. 1.01. APPLICATION**. The provisions of this Chapter shall be applicable to all the chapters, sections, subdivisions, paragraphs and provisions in the City Code, and the City Code shall apply to all persons and property within the City of Pine Island, Minnesota, and within such adjacent area as may be stated in specific provisions.

**SEC. 1.02. DEFINITIONS**. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of every chapter, section, subdivision, paragraph and provision of this City Code, shall have the following meanings and inclusions:

**Subd. 1**. **"City"** means the City of Pine Island, Minnesota, acting by or through its duly authorized representative.

**Subd. 2. "Council" and "City Council"** mean the City Council of the City of Pine Island, Minnesota.

**Subd. 3. "City Administrator"** means for purposes of this City Code and any other ordinance, regulation, resolution, or policy adopted by the City Council including the City's personnel policies, the person, committee, or body designated to fulfill the duties or responsibilities thereof. The City Council shall make such designation by resolution. The City Council may designate various persons, committees, or bodies to fulfill particular duties or responsibilities of the City Administrator. (Amended, Ord. No. 122, Second Series, 02-27-2013)

**Subd. 4. "Person"** includes all firms, partnerships, associations, corporations and natural persons.

**Subd. 5. "Written" and "In Writing"** mean any mode of representing words and letters in the English language.

**Subd. 6. "Street"** means the entire area dedicated to public use, or contained in an easement or other conveyance or grant to the City, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.

**Subd. 7. "Public Property"** and **"Public Place"** mean any place, property or premises dedicated to public use, owned by the City, occupied by the City as a lessee, or occupied by the City as a street by reason of an easement, including, but not limited to, streets, parks or parking lots so owned or occupied.

**Subd. 8. "Private Property"** means all property not included within the definition of public property or public place.

**Subd. 9. "Intersection"** means the area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

**Subd. 10. "Roadway"** means that portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

**Subd. 11. "Police Officer" and "Peace Officer"** mean every officer, including special police, authorized to direct or regulate traffic, keep the peace, and appointed or employed for the purpose of law enforcement.

**Subd. 12. "Misdemeanor"** means the crime for which a sentence of not more than 90 days or a fine of not more than $700.00, or both, may be imposed.

**Subd. 13. "Petty Misdemeanor"** means an offense, which does not constitute a crime, and for which a sentence of a fine of not more than $200.00 may be imposed.

**Subd. 14. "Conviction"** means either of the following accepted and recorded by the Court:

**A.** A plea of guilty; or,

**B.** A verdict of guilty by a jury or a finding of guilty by the Court.

**Subd. 15. "Crime"** means conduct which is prohibited by ordinance and for which the actor may be sentenced to imprisonment or fine.

**Subd. 16. "Ordinance"** means an ordinance duly adopted by the City Council of Pine Island, Minnesota.

**Subd. 17. "Ex Officio Member"** means a person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right and obligation (within their discretion) to speak to any question coming before the board, commission or other deliberative body of which they are such a member.

**Subd. 18. "May"** is permissive.

**Subd. 19. "Shall"** is mandatory.

**Subd. 20. "Violate"** includes failure to comply with.

**Subd. 21. "Premises"** means any lot, piece or parcel of land within a continuous boundary whether publicly or privately owned, occupied or possessed.

**SEC. 1.03. VIOLATION A MISDEMEANOR OR A PETTY MISDEMEANOR.** Every person violates a chapter, section, subdivision, paragraph or provision of this City Code when they perform an act thereby prohibited or declared unlawful, or fail to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor, or as for a petty misdemeanor, except as otherwise stated in specific provisions herein, as set forth in the specific chapter in which the section, subdivision, paragraph or provision violated appears. Upon conviction for a crime, the actor may be convicted of either the crime charged if it is a misdemeanor, or a petty misdemeanor as an included offense necessarily proved if the misdemeanor charge were proved.

**SEC. 1.04**. **OTHERWISE UNLAWFUL**. The City Code does not authorize an act or omission otherwise prohibited by law.

**SEC. 1.05. SEVERABILITY**. Every chapter, section, subdivision, paragraph or provision of the City Code shall be, and is hereby declared, severable from every other such chapter, section, subdivision, paragraph or provision and if any part or portion of any of them shall be held invalid, it shall not affect or invalidate any other chapter, section, subdivision, paragraph or provision.

**SEC. 1.06. PAYMENT INTO CITY TREASURY OF FINES AND PENALTIES.** The Court or officer thereof receiving such monies shall pay all fines, forfeitures and penalties recovered for the violation of any ordinance, charter, rule or regulation of the City into the City Treasury. Payment shall be made in the manner, at the time, and in the proportion provided by law.

**SEC. 1.07. MEANINGS**. As used in this City Code, words of the male gender shall include the female and neuter, and the singular shall include the plural and the plural shall include the singular.

**SEC. 1.08. CITATION**. This codification of the ordinances of the City of Pine Island shall henceforth be known as the City Code and cited thus: "CITY CODE, SEC. _____."

**SEC. 1.09. PENALTIES FOR EACH OFFENSE**. When a penalty or forfeiture is provided for the violation of a chapter, section, subdivision, paragraph or provision of this City Code, such penalty or forfeiture shall be construed to be for each such violation.

**SEC. 1.10. TITLES**. A title or caption to or in any chapter, section, subdivision, subparagraph or other provision of the City Code is for convenience only and shall not limit, expand, or otherwise alter or control the content, wording or interpretation thereof.

**SEC. 1.11. REFERENCE TO A PUBLIC OFFICIAL**. Wherever an appointed public official is referred to in the City Code, the reference shall include such public official or official's designee.

Source: City Code
Effective Date: 7-1-90

(Sections 1.12 through 1.99, inclusive, reserved for future expansion.)

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| 2.03 | Special Meetings |
| 2.04 | Council Procedure at Regular Meetings |
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| 2.07.1 | Procedures for Action on Applications and Petitions |
| 2.08 | Facsimile Signatures |
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Subd. 5 Purchases
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Subd. 3 Review of Permits
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(6-17-08)

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# CHAPTER 2
# ADMINISTRATION AND GENERAL GOVERNMENT

**SEC. 2.01. AUTHORITY AND PURPOSE**. Pursuant to authority granted by statute, this Chapter of the City Code is enacted so as to set down for enforcement the government and good order of the City by and through the Council.

**SEC. 2.02. COUNCIL MEETINGS - TIME AND PLACE**. Regular meetings of the Council shall be held in the Council Chambers on the third Tuesday of each month at 7:00 o'clock P.M. Special and adjourned meetings shall also be held in the Council Chambers, unless otherwise designated by the Council. In the event that any regular meeting falls on a holiday, then the meeting shall be held on the next business day at the same time.

**SEC. 2.03. SPECIAL MEETINGS**. Special meetings of the Council may be called by the Mayor or by any two other members of the Council by writing filed with the City Administrator stating the time, place and purpose of the meeting. Notice of a special meeting shall be given by the City Administrator to each member of the Council by mailing a copy of such filing to all members who did not sign or issue the call at least four days prior to the time stated therein, or by personal service at least 72 hours prior to the projected time of meeting. Special meetings may be held without prior written notice to the Council when all Council members are present at the meeting or consent thereto in writing. Any such consent shall be filed with the City Administrator prior to the beginning of the meeting. Any special meeting attended by all Council members shall be a valid meeting for the transaction of any business that may come before the meeting. Meetings of the Council which are adjourned from time-to-time shall not be subject to the foregoing notice requirements; nor shall special meetings which, in the judgment of the Council, require immediate consideration to meet an emergency require such notice, but may be called by telephone communication or any other expeditious means. Notice to the public and to news media shall be given as required by statute. (7-1-90)

(6-17-08)

**SEC. 2.04. COUNCIL PROCEDURE AT REGULAR MEETINGS**. The City Administrator shall prepare the following items: (1) an agenda for the forthcoming meeting; (2) a report from the City Administrator on administrative activities of the preceding month; (3) a compiled list of all claimants who have filed verified accounts claiming payment for goods or services rendered the City during the preceding month, such list to be called the "Claim Report" and bearing headings "Claimant", "Purpose", and "Amount"; (4) a copy of all minutes to be considered; and, (5) copies of such other proposals, communications, or other documents as the City Administrator deems necessary or proper for advance consideration by the Council. The City Administrator shall forthwith cause to be mailed or delivered to each member of the Council copies of all said documents. Roberts' Rules of Order (Newly Revised) shall govern all Council meetings as to procedural matters not set forth in the City Code. The order of business at regular meetings shall be as follows:

1. Roll Call.
2. Approval or Correction of Minutes.
3. Consent Agenda.
4. Opening of Bids.
5. Hearings.
6. Legal.
7. Engineering.
8. Financial.
9. Old Business.
10. New Business.
11. Public Input.
12. Claims.
13. Adjournment.

Matters inappropriate for consideration at a meeting, or not in the order specified, shall not be considered except (1) with the unanimous consent of the members of the Council, or (2) scheduled public hearings or bid lettings at the time stated in the notice. All claims for payment must be filed at or before 4:30 P.M. on the Tuesday preceding the regular Council meeting at which it is to be considered. (Ord. No. 19, Second Series, 8-26-93)

**SEC. 2.05. CITY SEAL**. All contracts to which the City is a party shall be sealed with the City Seal. Said City Seal shall be kept in the custody of the City Administrator and affixed by the Administrator. The official City Seal shall be a circular disc having engraved thereupon "CITY OF PINE ISLAND" and such other words, figures or emblems as the Council may, by resolution, designate.

(6-17-08)

**SEC. 2.06. RIGHT TO ADMINISTRATIVE APPEAL**. If any person shall be aggrieved by any administrative decision of the City Administrator or any other City official, or any Board or Commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full hearing before the Council upon serving a written request therefore upon the Mayor and City Administrator at least five days prior to any regular Council meeting. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. At such hearing the appellant may present any evidence appellant deems pertinent to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements and on their own motion or the motion of the appellant, the City Administrator, or a member of the Council, adjourn the hearing to a more convenient time or place, but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening.

**SEC. 2.07. RULES OF PROCEDURE FOR APPEALS AND OTHER HEARINGS.** The Council may adopt by resolution certain written rules of procedure to be followed in all administrative appeals and other hearings to be held before the Council or other bodies authorized to hold hearings and determine questions therein presented. Such rules of procedure shall be effective 30 days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings. (7-1-90)

**SEC. 2.07.1. PROCEDURES FOR ACTION ON APPLICATIONS AND PETITIONS.** The following procedures shall be applied in granting or denying any application or petition under this Chapter:

**Subd. 1.** Any application or petition (hereafter "the request") made under the City Code shall receive final action, or have the final action date extended, within 60 days of submission of written materials required herein, or the request shall be deemed approved. The City shall have ten business days following receipt of such materials to give written notice that required information has been omitted. The City may extend the time for final action up to an additional 60 days upon written notice to the applicant or petitioner, given within the initial 60-day period, stating the basis for the extension. The time limit set forth above may be additionally extended in order to comply with state statute, federal law or court order.

**Subd. 2.** The applicant shall make a written request providing information as is necessary to the City on a form supplied by the City and make payment of a filing fee as established by Council resolution.

(6-17-08)

**Subd. 3.** Where a hearing is otherwise required under the City Code or state statute, the appropriate reviewing body shall hold a public hearing on the application or petition. Notice of the hearing shall be published in the official newspaper at least ten days before the hearing. Written notice shall be sent to all persons to which the application or petition applies. Failure of a person to receive such notification shall not invalidate the proceedings, provided a bona fide attempt to comply with these provisions has been made.

**Subd. 4.** After review of the request and within 14 days after the hearing, the reviewing body shall adopt findings based upon the evidence established during the hearing, and recommend and transmit a recommendation to the Council. A copy of the recommendation shall be mailed to the applicant.

**Subd. 5.** In granting a request under the provisions of this Section, the reviewing body shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the City Code provisions or regulations to which the request applies.

**Subd. 6.** Prior to the scheduled public hearing, the applicant shall prepare and submit the appropriate exhibits for distribution to the reviewing body and to interested parties.

**Subd. 7.** The Council shall take action on the proposed recommendation following the procedure for adoption of ordinances; provided, that if the Council amends the recommendation, the amended recommendation shall not be enacted until the reviewing body has taken action on the amended recommendation through the procedures outlined in this Section. (Ord. No. 33, Second Series, 6-25-98)

**SEC. 2.08. FACSIMILE SIGNATURES.** The Mayor (or Acting Mayor) and City Administrator are hereby authorized to request a depository of City funds to honor an order for payment when such instrument bears a facsimile of their signatures, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were their manually written signatures. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.

**SEC. 2.09. CITY ADMINISTRATOR.**

**Subd. 1. Position Established**. The position of City Administrator is hereby established.

**Subd. 2. Appointment and Removal.** The City Administrator shall be appointed by the Council for an indefinite term. The Administrator shall not be removed except by affirmative action taken by the Council twice at two regular meetings held within 60 days. The action taken at the first such meeting shall be an expression of intent to vote thereon at the second such regular meeting not to be held sooner than ten days thereafter. If, at any time after the Administrator has completed six months of continuous service, the Council takes such action, the City Administrator may within 30 days after written notice of removal, request a public hearing which the Council must grant and which must be started within 30 days after the request.

**Subd. 3. Duties.** The City Administrator shall be the chief administrative officer of the City and the Administrator shall be responsible to the Council for the proper administration of all affairs of the City and to that end shall have the power and shall be required to:

**A**. Supervise the administration of all departments, offices and divisions of the City except as otherwise provided by law and carry out any other responsibilities placed under Administrator's jurisdiction by this Chapter or by subsequent Council action. The Administrator shall interview and screen all prospective City employees as permitted by law and shall make recommendations for terminating and suspending employees and may suspend any employee until the next Council meeting when the Council shall affirm, modify or rescind the suspension.

**B**. Develop and issue all administrative rules, regulations and procedures necessary to insure the proper functioning of all departments and offices under Administrator's jurisdiction as permitted by law and Council approval.

**C.** Prepare and submit an annual budget to the Council and keep the Council advised of the financial condition of the City and make such recommendations as Administrator may from time to time determine desirable and necessary.

(6-17-08)

**D**. Attend and participate in discussions at all meetings of the Council and other official bodies as directed by the Council. The City Administrator shall also represent the City at all official or semi-official functions as may be directed by the Council and not in conflict with the prerogatives of the Mayor. The Administrator shall be entitled to notice of all regular and special meetings of the Council.

**E**. See that all laws and provisions of the City Code are duly enforced.

**F**. Make or let purchases and contracts when the amount thereof does not exceed $2,000.00 and to receive estimates, quotations, sealed bids, purchases or contracts in excess of $2,000.00 and present them to the Council for official action.

**G**. Recommend from time to time the adoption of such measures as the Administrator may deem necessary or expedient for the health, safety and welfare of the community or for the improvement of the administration.

**H**. The City Administrator shall act as City Clerk and City Treasurer where statutory reference is made to these positions.

**I.** Perform such other duties as may be required by the Council and consistent with Minnesota Statutes and the City Code.

**Subd. 4. Bond Required.** The City Administrator shall furnish a surety bond to be approved by the Council, said bond to be conditioned on the faithful performance of Administrator's duties. The premium of the bond shall be paid by the City.

**Subd. 5. Compensation.** The City Administrator shall receive such compensation as the Council shall fix from time to time by ordinance or resolution.

**SEC. 2.10. DEPUTY CITY CLERK.**

**Subd. 1. Position Created.** The position of Deputy City Clerk is hereby created.

**Subd. 2. Delegation of Duties.** A portion of the bookkeeping duties, as may be determined from time to time, performed by the City Administrator, are hereby delegated to the Deputy City Clerk.

**Subd. 3. Bond.** The Deputy City Clerk shall furnish a fidelity bond conditioned on the faithful exercise of their duties. In lieu of such individual bond the Council may provide for a blanket bond, furnished by a surety company authorized to transact business in the State of Minnesota, and covering the position and duties of the Finance Officer. Premiums on either of such bonds shall be paid from City funds. (7-1-90)

**SEC. 2.11. INTERIM EMERGENCY SUCCESSION.**

**Subd. 1. Purpose.** Due to the existing possibility of a nuclear attack or a natural disaster requiring a declaration of a state of emergency, it is found urgent and necessary to insure the continuity of duly elected and lawful leadership of the City to provide for the continuity of the government and the emergency interim succession of key governmental officials by providing a method for temporary emergency appointments to their offices.

**Subd. 2. Succession to Local Offices.** In the event of a nuclear attack upon the United States or a natural disaster affecting the vicinity of the City, the Mayor, Council and City Administrator shall be forthwith notified by any one of said persons and by any means available to gather at the City Hall. In the event that safety or convenience dictate, an alternative place of meeting may be designated. Those gathered shall proceed as follows:

A. By majority vote of those persons present, regardless of number, they shall elect a Chairman and Secretary to preside and keep minutes, respectively.

B. They shall review and record the specific facts relating to the nuclear attack or natural disaster and injuries to persons or damage to property already done, or the imminence thereof.

**C**. They may, based on such facts, declare a state of emergency. By majority vote of those persons present, regardless of number, they shall fill all positions on the Council, (including the office of Mayor) of those persons upon whom notice could not be served or who are unable to be present. Such interim successors shall serve until such time as the duly elected official is again available and returns to their position, or the state of emergency has passed and a successor is designated and qualifies as required by law, whichever shall occur first.

**Subd. 3. Duties of the Interim Emergency Council.** The Interim Emergency Council shall exercise the powers and duties of their offices, and appoint other key government officials to serve during the emergency. (7-1-90)

(6-17-08)

**SEC. 2.11.1 EMERGENCY MANAGEMENT.**

**Subd. 1. Statute Adopted.** The "Minnesota Emergency Management Act of 1996", Minnesota Statutes, Chapter 12, insofar as it relates to cities, is hereby adopted by reference as part of this Section, as fully as if set forth explicitly herein.

**Subd. 2. Establishment of an Emergency Management Agency.** There is hereby created within the City government an Emergency Management Agency, which shall be under the supervision of a Director to be appointed forthwith by the Mayor. The Director shall have direct responsibility for the organization, administration and operation of said Emergency Management Agency, subject to the overall direction and control of the Council.

**Subd. 3. Emergency Preparedness Plan.** The Council may, by resolution, adopt, from time-to-time amend, or repeal an emergency preparedness plan for the City. )Ord. No. 33, Second Series, 6-25-98)

**SEC. 2.12. SALARIES OF MAYOR AND COUNCILPERSONS.** Salaries of the Mayor and Council are hereby fixed as follows, which amounts are deemed reasonable:

**Subd. 1.** The monthly salary of the Mayor shall be $180.00. (Amended, Ord. No. 70, Second Series, dated October 15, 2002)

**Subd. 2.** The monthly salary of each Councilperson shall be $150.00. (Amended, Ord. No. 70, Second Series, dated October 15, 2002)

**Subd. 3.** In addition to said monthly salaries, the Mayor shall be compensated $60.00, and each Councilperson shall be compensated $45.00, for each special Council meeting that they attend. (Amended, Ord. No. 70, Second Series, dated October 15, 2002)

**Subd. 4.** The salaries provided for herein shall be effective January 1, 2003. (Amended, Ord. No. 20, Second Series, dated October 15, 2002)

**SEC. 2.13. WORKER'S COMPENSATION.** The City shall not enter into any contract for doing public work before receiving from all other contracting parties acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes. (7-1-90)

**(Sections 2.14 through 2.19, inclusive, reserved for future expansion.)**

**SEC. 2.20. DEPARTMENTS GENERALLY.**

**Subd. 1**. **Control**. All departments of the City are under the overall control of the Council. Heads of all departments are responsible to the Council and subject to its supervision and direction, except as otherwise provided herein.

**Subd. 2. Appointment.** All department heads and employees shall be appointed by the Council. All appointments shall be for an indeterminate term and subject to any applicable civil service regulations in effect in the City.

**Subd. 3**. **Compensation.** All wages and salaries shall be fixed and determined by the Council.

**SEC. 2.21. FIRE DEPARTMENT**. A Volunteer Fire Department under the control of the Council is hereby established. The size, composition and remuneration shall all be established by resolution of the Council, which may be changed from time-to-time by subsequent resolution. The Council shall also establish written rules and regulations of the department, a copy of which shall be distributed to each of its members. The members of the department shall elect their own Chief, Deputy Chief, and other officers subject to confirmation and approval by the Council. The Chief of the Fire Department shall have general superintendence of the Fire Department and the custody of all property used and maintained for the purposes of said Department. The Chief shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the State and ordinances of the City relative to a Fire Department and to the prevention and extinguishment of fires are duly observed. The Chief shall superintend the preservation of all property endangered by fire and shall have control and direction of all persons engaged in preserving such property. In case of the absence or disability of the Chief for any cause, the Deputy Chief shall exercise all the powers, perform all the duties and be subject to all the responsibilities of the Chief. The Chief of the Fire Department shall make and file such reports as may be requested by the Council.

**SEC. 2.22. LEGAL DEPARTMENT**. A Legal Department is hereby established. The Council shall appoint a City Attorney, who shall be head of the Legal Department, together with such assistants as may be necessary who shall serve at the pleasure of the Council. The City Attorney shall perform such duties as are required by law or referred to the Attorney by the Council. It shall be the official duty of the City Attorney to act as “Reviser of Ordinances”.

(6-17-08)

**SEC. 2.23**. **PUBLIC WORKS DEPARTMENT**. A Public Works Department is hereby established. The head of such Department shall be the Public Works Superintendent. The City streets, parks and all underground water mains and sewerage systems, and water and wastewater utility operations shall be under the direct supervision of the Superintendent. The Superintendent shall be responsible for all property of such department. The Superintendent shall make and file such reports as may be requested by the City Council.

**SEC. 2.24. WATER AND WASTEWATER DEPARTMENT**. A Water and Wastewater Department is hereby established. The head of this department shall be the Superintendent of Water and Wastewater Operations. The water and wastewater utilities shall be under the Superintendent's supervision and control. The Superintendent shall make and file such reports as may be requested by the Council. (7-1-90)

**(Sections 2.24 through 2.29, inclusive, reserved for future expansion.)**

**SEC. 2.30. BOARDS AND COMMISSIONS GENERALLY.** Unless otherwise provided by other provisions of the City Code, all Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor or the Council, as the case may be, prior to the expiration of an existing term, and such appointment confirmed prior to expiration of the existing term. The term of each appointee shall be established and stated at the time of their appointment, and terms of present Board and Commission members may be reestablished and changed so as to give effect to this Section. After the effective date of the City Code, no Board or Commission member shall be appointed to more than three full consecutive terms. New appointees shall assume office on the first day of the first month following their appointment and qualification, or on the first day of the first month following the expiration of the prior term and qualification, whichever shall occur last. Provided, however, that all appointees and Commissions shall hold office until their successor is appointed and qualified. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be only for the unexpired term. No appointed Board or Commission member shall be an employee of the City, but an ex officio member may be so employed. All appointed Board and Commission members shall serve without remuneration, but may be reimbursed for out-of-pocket expenses incurred in the performance of their duties when such expenses have been authorized by the Council before they were incurred. The Chairman and the Secretary shall be chosen from and by the Board or Commission membership annually to serve for one year. Provided, however, that no Chairman shall be elected who has not completed at least one year as a member of the Board or Commission. Any Board or Commission member may be removed by the Council for misfeasance, malfeasance or nonfeasance in office and his position filled as any other vacancy. Each Board and Commission shall hold its regular meeting at a time established and approved by the Council. Except as otherwise provided, this Section shall apply to all Boards and Commissions. (7-1-90)

**SEC. 2.30.1 ADVISORY MEMBERS OF BOARDS AND COMMISSIONS.**

**Subd. 1. Appointments.** The Mayor may appoint from time to time, subject to the confirmation of a majority of the Council, advisory members of Boards and Commissions of the City. These appointments shall be in addition to the membership of the Board and/or Commission by the provisions of the City Code.

**Subd. 2. Residence.** Advisory Board and Commission members need not be residents of the City.

**Subd. 3. Voting.** No advisory Board or Commission member shall be entitled to vote as a member of the Board or Commission but shall be permitted to serve in an advisory capacity to take part in discussions regarding matters coming before that Board or Commission.

**Subd. 4**. **Term of Office.** Except to the extent that a specific term of office is required by law, Advisory Board and Commission members shall serve for a term of three years. Advisory Board and Commission members shall commence on the first business day of January of the calendar year in which they are appointed and shall expire three years thereafter. Advisory Board and Commission members may be reappointed upon expiration of the term of office. The Council may remove any appointed member when, in its judgment, the public welfare will be promoted by such removal. (Amended, 8-15-06)

**Subd. 5. Limited Advisory Members – Quorum.** No Board or Commission shall have more than two advisory members unless authorized by ordinance. The attendance of the advisory members shall not be considered in determining whether a quorum of the Board or Commission is present for the purposes of conducting the business of the Board or Commission. (Ord. No. 95-1, 6-2-95)

**SEC. 2.31. PLANNING COMMISSION.**

**Subd. 1. Establishment and Composition.** A Planning Commission is hereby established. The Commission shall be composed of five members who shall serve staggered three-year terms. The City Attorney, by reason of Attorney's position, shall be an ex-officio member and the Council may appoint one ex-officio member from the membership of the Council.

(6-17-08)

**Subd. 2. Powers and Duties.** The Planning Commission shall have all the powers and duties defined or granted in the statutes and the City Code relating to planning, zoning and subdivision regulation and shall act in an advisory capacity to the Council in all of such areas. (7-1-90)

**SEC.2.32. BOARD OF ZONING ADJUSTMENT.**

**Subd. 1. Establishment and Composition.** A Board of Zoning Adjustment, composed of the Planning Commission, is hereby established. (Ord. No. 33, Second Series, 6-28-98)

**Subd. 2. Powers and Duties.** The powers and duties of the Board are as enumerated in the Zoning Chapter of the City Code.

**SEC. 2.33. LIBRARY BOARD.**

**Subd. 1. Establishment and Composition.** A Library Board Composed of seven members, all of whom shall be users of the library and a majority of whom shall be residents of the City, who shall serve staggered three-year terms, is hereby established. All appointments for a full term shall be made by the Mayor with the approval of the Council, and a member may be removed in the same manner for misconduct or neglect. Appointments to fill vacancies for an unexpired term shall be made by the Council. No more than one Council member shall be a member of the Board. Members shall receive no compensation for their services but may be reimbursed for actual and necessary travel expenses incurred in the discharge of Board duties and activities.

**Subd. 2. Duties.** The duties of the Board are as follows:

**A**. To annually elect from its membership a President, Secretary and such other officers as it deems necessary; adopt rules and regulations for the government of the library and conduct of its business; recommend a qualified Library Director and other staff as necessary, establish compensation of employees, and remove them for cause.

**B**. To pay into the City Treasury all money received for the library, and interest thereon, which shall be credited to the Library Fund and kept separate from the other money of the City, and paid out only upon approval of the Board.

(6-17-08)

**C**. To have exclusive control of library grounds and rooms, and the construction of library buildings, and to lease rooms for library use if it finds such to be necessary or desirable. To annually report to the Council receipts and their sources, disbursements and for what purposes, the number of library materials on hand, purchased and loaned, and other information it deems advisable; and, to file such information with the Minnesota Department of Education not later than April 1 of each year.

**Subd. 3. Title to Property.** All property given, granted, conveyed, donated, devised, or bequeathed to, or otherwise acquired by, the City for a library shall vest in, and be held in the name of, the City, and any conveyance, grant, donation, devise, bequest or gift made to, or in the name of, the library or Library Board shall be deemed to have been made directly to the City. (7-1-90)

**SEC. 2.34. CEMETERY BOARD.**

**Subd. 1. Establishment and Composition.** An administrative Cemetery Board composed of seven members appointed by the Mayor, one of whom shall be a member of the City Council, is hereby established. The Council member shall serve a one-year term and the other members shall serve staggered three-year terms. The Board shall elect from its membership a Chair and Secretary-Treasurer. (Ord. No. 20, Second Series, 11-25-93; Ord. No. 107, Second Series, 2-16-10)

**Subd. 2. Powers and Duties.**

**A.** The Board shall establish rules and regulations both as to its procedure and the effective management of the cemetery, but subject to approval by the Council.

**B.** The Board shall establish rates and charges, subject to Council approval, establish such funds as may be necessary or desirable for accurate accounting, and keep detailed records of lot sales, receipts, disbursements, and its proceedings. (7-1-90)

**C.** The Board may, in accordance with City policy, enlist volunteer assistance to perform tasks required for cemetery operations. Additionally, the Board may propose that City employees perform certain tasks required for cemetery operations or that the City enter into agreements or contracts for the performance of cemetery operations. Any such Board proposal is subject to approval by the City Council. (Added, Ord. No. 207, Second Series, 2-16-10)

**SEC. 2.35. PARK BOARD.**

**Subd. 1. Establishment.** A Park Board is hereby created to be composed of five members who shall serve staggered three-year terms.

**Subd. 2. Duties.** The Board shall recommend improvements to the Council of any and all parks in the City and determine and direct the maintenance of the same. It shall further be the duty of the Board to see that all parks are kept free from rubbish and all deposits of refuse and garbage of whatever nature; and during the summer, to see that the parks are mowed and in the winter, that any sidewalks within the parks are free from snow and ice.

(2-21-11)

**Subd. 3. Rules and Regulations.** The Board is authorized and empowered for and on behalf of and in the name of the City, to set rules and regulations to be carried out by all persons in the City parks, subject however, to the Council's approval.

**Subd. 4. Personnel.** Park employees shall report and be accountable to the City Administrator.

**Subd. 5. Purchases.** The Park Board shall have authority to purchase necessary equipment and supplies in carrying out the necessary work of the Board; but before incurring any expenses (other than ordinary and maintenance expenses) exceeding the sum of $300.00, Council approval shall be necessary.

**Subd. 6. Budgeting.** For the purpose of carrying out the provisions of this Section, the Council may appropriate annually out of the resources of the City, such sums of money as it may deem necessary to maintain the parks in a proper condition. (Ord. No. 95-2, 3-16-95)

**SEC. 2.36. HERITAGE PRESERVATION COMMISSION. Ord. 61 Repealed, Ord. No. 90, Second Series, 6-27-08; Added, Ord. No. 90, Second Series, 6-27-08)**

**Subd. 1. Declaration of Public Policy and Purpose.** The Council of the City of Pine Island hereby declares as matter of public policy that the preservation, protection, perpetuation, promotion and use of areas, places, buildings, structures, lands, districts and other objects having a special historical, community or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the community. To this end, the Heritage Preservation Commission is created and charged with the stewardship of Pine Island's heritage.

The purposes of the Heritage Preservation Commission are to:

**A.** Safeguard the heritage of the City of Pine Island by preserving properties which reflect elements of the City's cultural, social, economic, political, visual, or architectural history;

**B.** Protect and enhance the City of Pine Island's appeal and attraction to residents, visitors, and tourists, while enhancing its economic viability through the protection and promotion of its unique character as related to its history and heritage;

**C.** Enhance the visual and aesthetic character, diversity and interest of the City of Pine Island;

**D.** Foster civic pride in the beauty and notable accomplishments of the past; and

**E.** Promote the preservation and continued use of historic properties for the education and general welfare of the people of the City of Pine Island.

**Subd. 2. Members.** There is hereby created and established a City of Pine Island Heritage Preservation Commission (hereinafter, the "Commission" which shall consist of:

**A.** Seven voting members to be appointed by the Mayor; by and with the advice and consent of the City Council. One voting member may be a student. No more than one voting member may be an area resident residing outside the City limits.

**B.** One member of the City Council shall be appointed by the Mayor, with the advice and consent of the City Council, an ex-officio, non-voting member of the Commission.

**C.** Any member (with the exception of the one member who may be an area resident residing outside the City limits) appointed to serve on the Heritage Preservation Commission shall be a resident of the City of Pine Island and shall have a demonstrated interest and/or expertise in historic preservation. If available in the community and willing to serve, at least two members of the Heritage Preservation Commission shall be preservation-related professionals, including the professions of history, architecture, architecture history, archaeology, 0planning real estate, design, building trades, landscape architecture, or law. One member of the Heritage Preservation Commission must be a designated representative of the Goodhue County Historical Society, if available, pursuant to Minnesota Statutes, Section 471.193.

**Subd. 3. Term.** The Mayor and City Council shall initially appoint.

**A.** Two members to serve a term of one year initially;

**B.** Two members to serve a term of two years initially; and

**C.** Three members to serve a term of three years.

Terms of office shall expire on the first day in May in the year following their last full year of appointment. All subsequent appointments shall be for a term of three years, except for ex-officio members who may be appointed annually. Members may be reappointed for consecutive years. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. The Mayor shall appoint a person to fill the vacancy for the remainder of the term within 45 days after the day on which the vacancy occurred. If a vacancy occurs in a term with less than 45 days remaining, the Mayor may allow the term to expire without appointing a person to fill the vacancy; after which the Mayor shall appoint a member for the full term.

**Subd. 4. Commission Member Compensation.** Members of the Commission will not receive a salary for their services, but may be compensated for an approved expenses incurred in the performance of their duties.

**Subd. 5. Commission Meetings.** The Commission shall meet at least four times during each calendar year. The Commission shall hold its first meeting within 45 days after the day on which this Section takes effect. At the first meeting the members of the Commission shall adopt rules and by-laws concerning the following:

**A.** The time, dates and place of future meetings;

**B.** Election of Commission officers;

**C.** Voting and quorum requirements.

**Subd. 6. Organization.** The Commission when formed shall elect from its members such officers as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees. The Commission shall make such by-laws as it may deem advisable and necessary for the conduct of its affairs and for the purpose of carrying out the intent of this Section which are not inconsistent with the laws of the City of Pine Island and the State of Minnesota.

**SEC. 2.37. HERITAGE PRESERVATION COMMISSION FUNCTIONS.** (Added, Ord. No. 90, Second Series, 6-17-08)

**Subd. 1. Definitions.** As used herein, the following terms have the meanings indicated:

**A.** "Pine Island Heritage Landmark" or "Heritage Landmark" shall mean any building, site, structure, district, or object which has been duly designated by the Heritage Preservation Commission and City Council as a Heritage Landmark.

**B.** "Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties" shall mean the current standards and guidelines issued by the U.S. Department of the Interior for preserving, rehabilitating, restoring, and reconstructing historic properties.

**C.** "National Register of Historic Places" is the nation's official list of properties worthy of preservation maintained by the United States Department of the Interior, National Park Service, pursuant to the National Historic Preservation Act of 1966, as amended. Nominations of properties in Minnesota to the National Register are made by the State Historic Preservation officer.

**D.** "Certificate of Appropriateness" is a certificate issued by the City and attached to a City permit evidencing compliance with the City's policies regarding the preservation, protection and use of heritage resources.

**E.** "Historical Significance" shall mean the heritage preservation value of a property in relation to an important historic context or theme related to American history, architecture, landscape architecture, engineering, or culture.

**F.** "Integrity" shall mean the aspects of location, design, setting, materials, workmanship, feeling, and association that allow a property to convey its historical significance.

**G.** "Heritage Resource" and "Historic Property" shall mean any historic building, site, structure, object, or district that has historical architectural, archaeological, or cultural value to the citizens of Pine Island, the State of Minnesota, or the United States.

**H.** "Plan of Treatment" shall mean the official preservation plan, prepared and adopted by the Heritage Preservation Commission in consultation with the property owner, that presents strategies for maintaining and enhancing the heritage preservation value of a Pine Island Heritage Landmark and provides specific guidance for design review decisions. The plan of treatment is adopted at the time a heritage landmark is designated.

**Subd. 2. Designation of Pine Island Heritage Landmarks.**

**A. Reports.** The Commission shall ensure that:

1. An annual report is prepared by October 31 of each year as required in accordance with Minnesota Statutes, Section 471.193, Subdivision 6 for submission to the Minnesota State Historic Preservation Office and shall file a copy with the City Administrator for distribution to the City Council.

2. An updated list of all areas, places, buildings, structures, lands, districts, or other objects which have been designated as Pine Island Heritage Landmarks is made available to the public.

3. An updated catalog of all known publications, articles, books, pamphlets, policies, or other materials having a direct bearing on the heritage preservation program for Pine Island are prepared, compiled, and made available to the City staff.

**B. Criteria for Designation of Properties as Heritage Landmarks.** The Commission shall apply the following criteria when evaluating the historical significance of any property being considered for nomination as a Heritage Landmark:

1. Its association with events or patterns of events that have made a significant contribution to the broad patterns of local, state and national history.

2. Its association with the lives of persons who have made a significant contribution to state or local history.

3. Its architectural, engineering, artistic, or landscape qualities in relation to an important style, type, period, or method of construction.

4. Its scientific or informational value in prehistory or history.

5. Its identify as an historic district, neighborhood, or environment comprised of heritage resources united historically or aesthetically by plan or physical development, including features that lack individual distinction.

**C. Findings of Significance.** If the Commission determines that a historic property appears to meet one or more of the eligibility criteria for designation as a Heritage Landmark, it may by majority vote issue a finding of historical significance for planning purposes. Copies of the findings shall be transmitted to the City Council with the Commission's annual report.

(6-17-08)

**D. Owner Notification.** Prior to the Commission nominating any property for designation by the City Council as a Pine Island Heritage Landmark, the Commission shall notify the owners of subject property and provide them with an opportunity to review and comment on the proposed nomination.

**E. Heritage Landmark Nomination Report.** Each nomination for a Pine Island Heritage Landmark shall be accompanied by a heritage landmark nomination report that identifies and locates the historic property, explains how it meets one or more of the criteria for designation, and makes the case for historical significance and integrity. The nomination report will also include a plan for the treatment of the property which may include permit review guidelines. A copy of the nomination report will be transmitted to the State Historic Preservation Officer for review and comment prior to City Council action.

**F. Planning Commission Review.** All heritage landmark nomination reports shall be transmitted to the City of Pine Island Planning Commission for review and comment prior to designation.

**G. Council Designation, Hearings.** The City Council may by resolution designate a Heritage Landmark. Upon receipt of the Commission's landmark nomination report, the City Council shall hold a public hearing to seek comments and recommendations from the owners of the subject historic property, neighbors, citizens, and other interested parties. Prior to such hearing, the City shall cause the notice of the public hearing to be published in the official newspaper of the City of Pine Island at least ten days prior to the day of the hearing; and written notice of the public hearing shall be mailed to all owners of record of the property or properties proposed to be designated as a Heritage Landmark at least ten days prior to the day of the hearing.

**H. Nominations to the National Register of Historic Places.** The Commission shall make no nomination to the National Register of Historic Places without the consent of the City Council.

**Subd. 3. Review of Permits.**

**A. Certificates of Appropriateness Required.** To protect Pine Island Heritage Landmarks, the Commission shall review all applications for City permits for the following types of work in relation to properties designated or determined eligible for designation as Heritage Landmarks:

1. Remodeling or alteration of any part of the street façade of a building;

2. Demolition of any building or structure, in whole or in part;

3. Moving a building or structure to another location;

4. Excavation of archaeological features, grading or earth moving in areas believed to contain significant prehistoric or historic archaeological sites; and

5. New construction, including additions, garages, and landscape structures.

No City permit for the types of work described above will be issued without a Certificate of Appropriateness approved by the Commission, evidencing compliance with the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, the approved plan of treatment for the subject Pine Island Heritage Landmark, and the City's Comprehensive Plan.
Requests for Certificates of Appropriateness shall be transmitted to the Commission within five business days, accompanied by the City permit application form, including all plans, drawings, maps, and other supporting documentation. The Commission shall hear and act on all requests for Certificates of Appropriateness within 30 days; whenever a request for a Certificate of Appropriateness is denied, the Commission shall state its reasons for denial in writing and provide copies of its findings to the applicant and the City building official.

**B. Review of Development Projects.** To assure compliance with this Section and the goals and policies of the City's comprehensive plan, the Commission shall review every application for a preliminary plat, conditional use permit, variance, rezoning, or development plan in relation to any property designated or determined eligible for designation as a Pine Island Heritage Landmark; and the City Planning Commission and Economic Development Authority shall give the Commission a reasonable opportunity to comment on such projects before making its recommendation to the City Council.

**C. Permit Application and Plans.** Every application for any type of City permit in relation to a property designated as a Pine Island Heritage Landmark shall be accompanied by detailed plans and a written description of the proposed work to be done. Preparation of the plans and written description shall be the responsibility of the permit applicant. The City building official or Zoning Administrator shall immediately transmit a copy of the permit application, the request for a Certificate of Appropriateness, and the supporting documents submitted therewith to the Commission. The City shall not issue permits until receiving an approved Certificate of Appropriateness from the Commission.

(6-17-08)

**D. Findings.** All decisions of the Commission with respect to approval or denial of Certificates of Appropriateness shall be based on explicit findings which are in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the Plan of Treatment adopted for each individual Pine Island Heritage Landmark.

**E. Appeal to the City Council.** Any party aggrieved by a decision of the Commission or an administrative official may appeal such decision by filing a written appeal with the City Clerk or City Administrator no later than ten days after the decision of the Commission or an administrative official. If not so filed, the right of appeal shall be deemed waived and the decision of the Commission shall be final. Upon receipt of the appeal, the City Clerk or City Administrator shall transmit copies of said appeal to the City Council and the Commission. The City Council shall hear and decide all appeals in the manner provided by the pertinent section of the City Code.

**F. Limitations.** If within 35 days from the date of the application for a City permit that is subject to the Certificate of Appropriateness requirement in Section 7 of this Section, the Commission has not acted on the request for a Certificate of Appropriateness, the permit for the proposed work shall be issued by the City building official. If all other requirements of the City have been met. No permit shall be issued nor work commenced in the event the Commission disapproves the request for a Certificate of Appropriateness in accordance with this Section.

**G. Emergency Repair.** In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the City Administrator or the City Building Official may approve the repair without prior Commission action. In the case of an emergency repair permit issued pursuant to the Section, the City Administrator shall immediately notify the Commission of the action and specify the facts or condition constituting the emergency situation.

**Subd. 4. Enforcement.** In case any building or structure subject to the regulation of this Section is to be erected or constructed, reconstructed, altered, repaired, converted, maintained, moved, or subjected to demolition in violation with this Section, the Zoning Administrator, in addition to any other remedies, may:

**A.** Institute civil action for injunctive relief to stop, prevent or abate a violation of this Section.

(6-17-08)

**B.** Issue a stop work order to prevent continuing violation of this Section.

Work which proceeds in violation of this Section, in contravention of a stop work order, or in disregard of a court ordered injunction, shall be a public nuisance.

**Subd. 5. Additional Powers and Duties of the Commission.** The Commission shall have the following powers and duties, in addition to those otherwise specified in this Section:

**A.** Carry out a comprehensive survey of historic properties and maintain an inventory of such properties.

**B.** Nominate properties to the National Register of Historic Places when authorized by the City Council.

**C.** Prepare, implement, and periodically review a comprehensive heritage preservation plan for the City of Pine Island.

**D.** Seek grants, gifts, and donations that can further the work of the City's heritage preservation program. Any contributions or gifts will be managed by the City of Pine Island in the manner provided through the fiscal policy of the City.

**E.** Work with the Pine Island Economic Development Authority to ensure that historic properties are taken into consideration when planning development projects.

**F.** Provide City officials and the general public with information, education, and training in heritage preservation.

**G.** Cooperate with the Pine Island Area Historical Society, the Goodhue County Historical Society, the Minnesota Historical Society, and other organizations in the development of public education and information programs relating to the City of Pine Island's heritage.

**H.** Perform all other functions authorized or delegated to it by the City Council of the City of Pine Island.

**(Sections 2.38 through 2.49, inclusive, reserved for future expansion.)**

## SEC. 2.50. DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED PROPERTY AND EXCESS PROPERTY.

### Subd. 1. Disposal of Abandoned Motor Vehicles.

**A. Definitions.**

**1**. The term "Abandoned Motor Vehicle" means a motor vehicle as defined in Minnesota Statutes, Chapter 169, that has remained for a period of more than 48 hours on public property illegally or lacking vital component parts, or has remained for a period of more than 48 hours on private property without the consent of the person in control of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the City. A classic car or pioneer car, as defined in Minnesota Statutes, Chapter 168, shall not be considered an abandoned motor vehicle within the meaning of this Section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the City Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

**2**. The term "Junk Vehicle" means a vehicle that three years old or older; is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission, is apparently inoperable; does not have a valid, current registration plate; and has an approximate fair market value equal only to the approximate value of the scrap in it.

**3.** The term "Unauthorized Vehicle" means a vehicle that is subject to removal and impoundment pursuant to Minnesota Statutes but is not a junk vehicle or abandoned vehicle.

**4.** The term "Vital Component Parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.

**B. Custody.** The City may take into custody and impound any abandoned or junk motor vehicle, or any unauthorized vehicle as provided by statute.

**C. Sale; Waiting Periods.**

**1.** An impounded vehicle is eligible for disposal or sale 15 days after notice to the owner if the vehicle is determined to be a junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale; or an abandoned motor vehicle.

**2**. An impounded vehicle is eligible for disposal or sale 45 days after notice to the owner if the vehicle is determined to be an unauthorized vehicle.

(6-17-08)

**D. Notice.**

**1**. When an impounded vehicle is taken into custody, the City or impound lot operator shall give notice of the taking within five days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under Subparagraph E of this Subdivision, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under statute shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to Subparagraph F of this Subdivision.

**2**. The notice shall be sent by mail to the registered owner, if any, of the impounded motor vehicle and to all readily identifiable lien holders of record. This information shall be made available to impound lot operators for notification purposes. 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 where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy. If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lien holders of record.

**E. Right to Reclaim.**

**1.** The owner or any lien holder of an impounded motor vehicle shall have the right to reclaim such vehicle from the City or impound lot upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days as applicable under this Section after the date of the notice required by this Section.

**2.** Nothing in this Subdivision shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of the lien holder to foreclose. For the purposes of this Subparagraph E "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.

**F. Auction or Sale.**

**1**. An abandoned or unauthorized motor vehicle and contents taken into custody by the City or any impound lot and not reclaimed under Subparagraph E of this Subdivision may be disposed of or sold at auction or sale when eligible pursuant to Subparagraph E. The purchaser shall be given a receipt in a form prescribed by the Registrar 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.

**2**. From the proceeds of the sale of an abandoned or unauthorized motor vehicle by the City or public impound lot, 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 Subdivision. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the General Fund of the City.

**3**. The operator of a nonpublic impound lot may retain any proceeds from a sale derived from a sale conducted under the authority of this Section. The operator may retain all proceeds from the sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale; except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

**G. Operator's Deficiency Claim.** The non-public impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the cost of 25 days' storage for an abandoned or junk vehicle and 55 days' storage for a vehicle determined to be an unauthorized vehicle.

**H. Disposal of Vehicles.** Where no bid has been received for an abandoned or junk motor vehicle, the City may dispose of it in accordance with this Subdivision.

**I. Contracts and Disposal.**

**1.** The City may contract with any qualified person for collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.

**2.** Where the City enters into a contract 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 a contract has been approved, the Agency may reimburse the City for the costs incurred under the contract, which have not been reimbursed.

**3.** If the City utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

**Subd. 2. Disposal of Unclaimed Property**

**A. Definition.** The term "Abandoned Property" means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least 60 days and has been declared such by a resolution of the Council.

**B. Preliminary Notice.** If the City Administrator knows the identity and whereabouts of the owner, the Administrator shall serve written notice upon owner at least 30 days prior to a declaration of abandonment by the Council. If the City acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Administrator, notice shall also be served upon prior owner. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of thirty days from the date of such notice.

**C. Notice and Sale.** Upon adoption of a resolution declaring certain property to be abandoned property, the City Administrator shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once in a legal newspaper at least ten days prior to the sale. Sale shall be made to the highest bidder at public auction or sale or by a nonprofit organization with a significant mission of community service in a private sale in the manner authorized by statute.

**D. Funds and Claims Thereon.** Expenses shall be paid from the proceeds of the sale; the balance of the proceeds shall be paid into the General Fund of the City if the property was disposed of by a public auction or sale; or in the case of a private sale, to the nonprofit organization authorized to conduct said sale. The former owner, if the former owner makes claim within six months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefore, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. (Ord. No. 33, Second Series, 6-25-98)

**Subd. 3. Disposal of Excess Property.**

**A. Declaration of Surplus and Authorizing Sale of Property.** The City Administrator 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 Administrator authorized to dispose of said property in the manner stated herein.

**B. Surplus Property With a Total Estimated Value of Less than $100.00.** The City Administrator may sell surplus property with a total value of less than $100.00 through negotiated sale.

**C. Surplus Property With a Total Estimated Value Between $100.00 and $500.00.** The City Administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from $100.00 to $500.00. 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 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 City Administrator's option. Such sale shall be held by such method as the Council deems in the best interests of the City.

**D. Surplus Property With a Total Estimated Value Over $500.00.** The City Administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value over $500.00. Notice of such public sale shall be given stating time and place of sale and generally describing property to be sold at least ten days prior to the date of sale by publication once in the official newspaper. Such sale shall be to the person submitting the highest bid.

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

**Subd. 4. Persons Who May Not Purchase - Exception.**

**A.** 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 responsible bidder, and if at least one week's published or posted notice of sale is given.

**B.** 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.

**SEC. 2.51. PERSONNEL RULES AND REGULATIONS.** The Council may, by resolution, establish personnel rules setting forth the rights, duties and responsibilities of employees. Such rules may from time-to-time be amended.

**SEC. 2.52. PARTIAL PREPAYMENT OF SPECIAL ASSESSMENTS.**

**Subd. 1. Partial Prepayment of Assessments Permitted.** After the adoption of an assessment roll pursuant to Minnesota Statutes, Chapter 429, as amended, and before certification of said assessment roll to the County Auditor, the City Administrator, or other authorized official, is authorized and directed to accept partial prepayment of said assessment, and reduce the amount certified to the County Auditor accordingly. As provided by law, such partial prepayment may be accepted only during the 30-day period following approval of the assessment roll.

**Subd. 2. Scope.** This Section shall apply to all assessment rolls which, on the effective date hereof, have been adopted by the Council but not yet certified to the County Auditor, and to all assessment rolls subsequently adopted by the Council.

**SEC. 2.53. FRANCHISES.**

**Subd. 1. Definition.** The term "Franchise" as used in this Section shall be construed to mean any special privileges granted to any person in, over, upon, or under any of the streets or public places of the City, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

**Subd. 2. Franchise Ordinances.** The Council may grant franchises by ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All persons desiring to make any burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon, or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating railways, telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the City or its inhabitants or any portion thereof, transportation facilities, water, light, heat, power, gas, or any other such utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.

**Subd. 3. Power of Regulation Reserved.** The City shall have the right and power to regulate and control the exercise by any person, of any franchise however acquired, and whether such franchise has been heretofore granted by it or by the State of Minnesota.

**Subd. 4. Conditions in Every Franchise.** All conditions specified in this Section shall be a part of every franchise even though they may not be expressly contained in the franchise:

**A.** That the grantee shall be subject to and will perform on its part all the terms of this Section and will comply with all pertinent provisions of the City Code, as the same may from time to time be amended.

**B.** That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges shall at all times be just, fair and reasonable for the services rendered and shall in all cases be fixed and from time to time changed, unless regulated by an agency of the State of Minnesota, in the manner following:

**1**. A reasonable rate shall be construed to be one which will, with efficient management, normally yield above all operating expenses and depreciation, a fair return upon all money invested.

**2.** If possible, maximum rates and charges shall be arrived at by direct negotiation with the Council.

(6-17-08)

**3.** If direct negotiations fail to produce agreement, the Council shall, not less than 30 days before the expiration of any existing rate schedule or agreement, appoint an expert as its representative, the franchisee shall likewise appoint an expert as its representative and the two of them shall appoint a third person, preferably an expert, and the three of them shall constitute a board of arbitration. The board shall report its findings as soon as possible and the rates and charges it shall agree upon by majority vote shall be legal and binding, subject only to review by a court of competent jurisdiction upon application of one of the parties. (2-1-05)

**C.** That the Council shall have the right to require reasonable extensions of any public service system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the public.

**D.** That the grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive upon condemnation proceedings brought by the City to acquire the public utility exercising such franchise, any return on account of the franchise or its value.

**E.** That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed with the City an instrument, duly executed, reciting the facts of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder.

**F.** That every grant in said franchise contained of permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the Council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the Council may at any time deem necessary for the safety, health, or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts, and other fixtures bearing wires and the placing underground of all facilities for whatsoever purpose used.

**G.** Every franchise shall contain a provision granting the City the right to acquire the same in accordance with statute.

(6-17-08)

**H.** That the franchisee may be obligated by the City to pay the City fees to raise revenue or defray increased costs accruing as a result of utility operations, or both, including, but not limited to, a sum of money based upon gross operating revenues or gross earnings from its operations in the City.

**Subd. 5. Further Provisions of Franchises.** The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the City to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the Council may deem proper to protect the City's interests, nor shall anything contained in this Section limit any right or power possessed by the City over existing franchises. (7-1-90)

**SEC. 2.54. TRUST OR ESCROW ACCOUNT FOR FIRE OR EXPLOSION LOSSES.** The City may establish a trust or escrow account to hold proceeds from losses arising from fire or explosion of insured real property located within the City. The City may utilize these funds to secure, repair or demolish damaged or destroyed structures and clear the property in question, so that the structure and property are in compliance with local code requirements and applicable City Code provisions. Any unused portion of the retained proceeds shall be returned to the insured. In addition, the regulatory and procedural provisions of Minnesota Statutes, 65A.50, Trust or Escrow Accounts; Insured Real Property Fire or Explosion Loss Proceeds are hereby incorporated herein and adopted by reference, including the penalty provision thereof. (Ord. No. 33, Second Series, 6-25-98)

**(Sections 2.55 through 2.59, inclusive, reserved for future expansion.)**

**SEC. 2.60. ELECTIONS AND TERMS.**

**Subd. 1. Elections.** The regular City election shall be held on the first Tuesday after the first Monday in November in each even-numbered year. At such election, the Mayor and two Councilpersons shall be elected.

**Subd. 2. Terms.** The Mayor shall be elected for a two-year term and two Councilpersons shall be elected for four-year terms at each such election. (7-1-90)

**(Sections 2.61 through 2.98, inclusive, reserved for future expansion.)**

**SEC. 2.99. VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when they perform an act thereby prohibited or declared unlawful, or fail to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. (7-1-90)

(6-17-08)

**SUB-ANALYSIS**
**Title**

**CHAPTER 3** **MUNICIPAL UTILITIES – RULES AND REGULATOPMS, RATES, CHARGES AND COLLECTIONS**


Section

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# CHAPTER 3

## MUNICIPAL UTILITIES - RULES AND REGULATIONS, RATES, CHARGES AND COLLECTIONS

**SEC. 3.01. DEFINITIONS**. As used in this Chapter, the following words and terms shall have the meanings stated:

**A.** **"Utility"** means all utility services, whether the same be public City-owned facilities or furnished by public utility companies.

**B.** **"Municipal Utility"** means any City-owned utility system, including, but not by way of limitation, water and sewerage service.

**C.** **"Company", "Grantee", and "Franchisee"** mean any public utility system to which a franchise has been granted by the City.

**D.** **"Consumer" and "Customer"** mean any user of a utility.

**E.** **"Service"** means providing a particular utility to a customer or consumer.

**SEC. 3.02. FIXING RATES AND CHARGES FOR MUNICIPAL UTILITIES.** All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, permit fees, deposit, connection and meter testing fees, disconnection fees, reconnection fees including penalties for non-payment if any, shall be fixed, determined and amended by the Council and adopted by resolution. Such resolution, containing the effective date thereof, shall be kept on file and open to inspection in the office of the City Administrator and shall be uniformly enforced. For the purpose of fixing such rates and charges, the Council may categorize and classify under the various types of service, provided, that such categorization and classification shall be included in the resolution authorized by this Section.

**SEC. 3.02.1. STORM SEWER UTILITY.** (Added, Ord. No. 68, Second Series)

**Subd. 1.** **Storm Sewer System; Statutory Authority**. Minnesota Statutes, Section 444.075, authorizes cities to impose just and reasonable charges for the use and availability of storm sewer facilities. By this Section, the City elects to exercise such authority.

(2-1-05)

**Subd. 2. Findings and Determinations**. In providing for such charges, the findings and determinations set out in this Subsection are made.

**A.** In the exercise of its governmental authority and in order to promote the public health, safety, convenience and general welfare, the City has constructed, operated and maintained a storm sewer system ("the System"). This Section is adopted in the further exercise of such authority and for the same purposes.

**B.** The System, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. Such financing methods were appropriate to the circumstances at the time they were used. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the System through the imposition of charges as provided in this Section.

**C.** In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the System, past methods of recovering system costs, the topography of the City and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining and improving the System on the basis of the expected storm water runoff from the various parcels of land within the City during a standard one-year rainfall event.

**D.** Assigning costs and making charges based upon typical storm water runoff cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this Section undertake to establish a reasonable and practical methodology for making such charges.

**Subd. 3. Rates and Charges.**

**A. Residential Equivalent Factor**. Rates and charges for the use and availability of the System are to be determined through the use of a "Residential Equivalent Factor" ("REF"). For the purposes of this Section, one REF is defined as the ratio of the average volume of surface water runoff coming from one acre of land and subjected to a particular use, to the average volume of runoff coming from one acre of land subjected to typical single-family residential use within the City during a standard one-year rainfall event.

**B. Determination of REF's for Land Uses**. The REFs for the following land uses within the City and the billing classifications for those land uses are as follows:

| | REF | Classification |
|---|---|---|
| Cemeteries, vacant | .25 | 1 |
| Parks and railroads | .75 | 2 |
| Two-family residential | 1.00 | 3 |
| Single-family residential | 1.00 | 4 |
| Public and private schools and institutional uses, airport | 1.25 | 5 |
| Multiple-family residential uses and churches | 3.00 | 6 |
| Commercial, industrial and warehouse uses | 5.00 | 7 |

**C. Other Land Uses**. Other land uses not listed in the foregoing table are to be classified by the City Manager by assigning them to the classes most nearly like the listed uses, from the standpoint of probable hydrologic response. Appeals from the City Manager's determination of the proper classifications may be made to the City Council in the same manner as other appeals from administrative determinations.

**Subd. 4. Establishing basic rate**. In determining charges, the Council may, by resolution establish a basic system rate to be charged against one acre of land having an REF of one. The charge to be made against each parcel of land will then be determined by multiplying the REF for the parcel's land use classification times the parcel's acreage times the basic system rate.

**Subd. 5. Standard Acreage**. For the purpose of simplifying and equalizing charges against property used for single-family and two-family residential purposes, each of such properties is considered to have an acreage of one-fifth acre.

**Subd. 6. Adjustments of charges.** The City Council may by resolution, from time to time, adopt policies providing for the adjustment of charges for parcels or grounds of parcels, based upon hydrologic data supplied by affected property owners, demonstrating an actual hydrologic response substantially different from the REF being used for the parcel or parcels. The adjustment may be made only after receiving the recommendation of the City Manager and may not be made effective retroactively. If the adjustment would have the effect of changing the REF for all or substantially all of the land uses in a particular classification, however, such adjustment must be accomplished by amending the REF table in Section 3.02.1, Subdivision 3 B.

**Subd. 7. Excluded Lands**. A charge for System availability of service will not be made against land which is either (i) public street right-of-way or (ii) vacant and unimproved with substantially all of its surface having vegetation as ground cover.

(2-1-05)

**Subd. 8. Supplying Information.** The owner, occupant or person in charge of any premises must supply the City with such information as the City may reasonably request related to the use, development and area of the premises. Willful failure to provide such information or to falsify it is a violation of this Subsection.

**Subd. 9. Estimated Charges.** If the owner, occupant or person in charge of any premises fails or refuses to provide the information requested, as provided in Subdivision 8, the charge for such premises must be estimated and billed in accordance with such estimate, based upon information then available to the City.

**Subd. 10. Billings and Collections.** Bills for charges for the use and availability of the System must be rendered by the Finance Department in accordance with usual and customary practice in rendering of water and sanitary sewer service bills. Bills must be rendered quarterly, must be payable at the office of the City Finance Department and may be rendered in conjunction with billings for water or sanitary sewer service, or both.

**Subd. 11. Penalties and Remedies for Delinquency or Default in Paying Billings.** Penalties and remedies for late payments or non-payment of billings are the same as those applicable to billings rendered for water and sanitary sewer service.

**Subd. 12. Use of Revenues.** Revenues received from charges are to be placed in a separate storm sewer system account and used first to pay the normal, reasonable and current costs of operating and maintaining the system. Revenues from time to time received in excess of such costs may be used to finance improvements to and betterment of the System. (7-1-90)

**SEC. 3.03. CONTRACTUAL CONTENTS**. Provisions of this Chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same.

**SEC. 3.04. RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES.**

**Subd. 1. Billing, Payment and Delinquency**. All municipal utilities shall be billed monthly and a utilities statement or statements shall be mailed to each consumer. All utilities charges shall be delinquent if they are unpaid within 28 days after the date of the bill. A penalty shall be added to, and become part of, all delinquent utility bills. Delinquent utility accounts shall result in disconnection on the day stated in a personally served notice to the consumer, but not less than ten days after the date on which the notice is given. If service is suspended due to delinquency it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected, in addition to amounts owed for service and penalties. (Ord. 95-5, 3-30-95)

**(CODIFIER'S NOTE:** Procedural requirements for discontinuing water service are set forth in Section 3.10.)

**Subd. 2. Application, Connection and Sale of Service.** Application for municipal utility services shall be made upon forms supplied by the City, and strictly in accordance therewith. No connection shall be made until consent has been received from the City to make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates.

**Subd. 3. Discontinuance of Service.** All municipal utilities may be shut off or discontinued whenever it is found that:

**A.** The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code relative thereto, or any connection therewith, or,

**B.** Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice thereof, or,

**C.** There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefor.

**Subd. 4. Ownership of Municipal Utilities.** Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances thereto, shall be and remain in the City and no person shall own any part or portion thereof. Provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

**Subd. 5. Right of Entry.** By applying for, or receiving, a municipal utility service, a customer irrevocably consents and agrees that any City employee acting within the course and scope of their employment may enter into and upon the private property of the customer, including dwellings and other buildings, at all reasonable times under the circumstances, in or upon which private property a municipal utility, or connection therewith, is installed, for the purpose of inspecting, repairing, reading meters, connecting or disconnecting the municipal utility service.

(2-1-05)

**Subd. 6. Meter Test.** Whenever a consumer shall request the City to test any utility meter in use by them, such a request shall be accompanied by a cash deposit established by resolution of the Council for each meter to be tested. If any such meter is found to be inaccurate the same shall be replaced with an accurate meter and the deposit thereon refunded. If the meter shall be found to be accurate in its recordings or calculations it shall be reinstalled and the deposit shall be retained by the City to defray the cost of such test. As to remote-type readers, and if there is a disparity between the meter reading and the remote reading, the meter reading shall govern.

**Subd. 7. Unlawful Acts.**

**A.** It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.

**B.** It is unlawful for any person to make any connection with, opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.

**C.** It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for non-payment of a bill, or for any other reason, without first having obtained a permit to do so from the City.

**D.** It is unlawful for any person to "jumper" or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge. (7-1-90)

(2-1-05)

**Subd. 8. Municipal Utility Services and Charges a Lien.**

**A.** Payment for all municipal Utility (as that term is defined in City Code, Section 3.01) service and charges shall be the primary responsibility of the fee owner of the premises served and shall be billed to such owner unless otherwise contracted for and authorized in writing by the fee owner and any other person (such as a tenant, contract purchaser, manager, etc.), as agent for the fee owner, and consented to by the City of Pine Island, Minnesota. If the utility service and charges are for a single metered multi-unit rental residential building, the owner of said building shall be the customer of record and this responsibility shall not be waived by contract or otherwise. The City may collect the same in a civil action or, in the alternative and at the option of the City, as otherwise provided in this Subdivision. (Ord. 34, Second Series, 6-25-98)

**B.** Each such account is hereby made a lien upon the premises served. All such accounts which are more than 45 days delinquent may, when authorized by resolution of the Council, be certified by the City Administrator of the City of Pine Island, Minnesota, to the County Auditor, and the City Administrator in so certifying shall specify the amount thereof, the description of the premises served, and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the City along with other taxes.

**SEC. 3.05. CONNECTION OR TAPPING PROHIBITED - DELINQUENT ASSESSMENTS OR CHARGES.** No permit shall be granted to tap or connect with sewer or water mains when any assessment or connection charge for such sewer or water main against the property to be connected is in default or delinquent. If such assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid. (7-1-90)

**(Sections 3.06 through 3.09, inclusive, reserved for future expansion.)**

**SEC. 3.10. RULES AND REGULATIONS RELATING TO WATER SERVICE.**

**Subd. 1. Connection Charge.** It is unlawful for any person to connect any premises with the water system of the City except upon the granting of a permit therefore by the Council or its authorized representative after submission of a written application. Said application shall be accompanied by a cash connection fee which fee shall be returned to the applicant should the permit be refused. (Added, Ord. No. 84, 2-20-07)

**Subd. 2. Deficiency of Water and Shutting Off Water.** The City is not liable for any deficiency or failure in the supply of water to customers whether occasioned by shutting the water off for the purpose of making repairs or connections or by any other cause whatever. In case of fire, or alarm of fire, water may be shut off to insure a supply for fire fighting. In making repairs or construction of new works, water may be shut off at any time and kept off so long as may be necessary. (Amended, Ord. No. 84, 2-20-07)

**Subd. 3. Discontinuance of Service for Non-Payment.**

**A.** The City shall endeavor to collect delinquent accounts promptly. In any case where satisfactory arrangements for payments have not been made, the City may, after the procedural requirements of Subparagraph B, below, have been complied with, discontinue service to the delinquent customer by shutting off the water at the curb stop. When water service to any premise has been discontinued, service shall not be restored except upon the payment of all delinquent amounts due plus a fee for disconnection and reconnection. (7-1-90)

**B.** Water service shall not be discontinued under Subparagraph A, above, until notice and an opportunity for a hearing have first been given to the occupant, and in the case of non-owner occupied premises, the occupant and owner, of the premises involved. The notice shall be served either personally, or by certified mail, return receipt requested, and shall state that if payment is not made before a date stated in the notice, but not less than ten days after the date on which the notice is given, the water supply to the premises will be shut off. The notice shall clearly inform the customer of the available opportunities to present to the City their objections to the bill, and shall identify the telephone number, address, and officer or employee who will handle the customer's complaint and who has the authority to review the facts and files, to correct any errors in the billing, and to arrange for credit terms. The notice shall state that the occupant 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 customer requests a hearing before the date specified, the hearing shall be held on the matter by 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 discontinued, the City may discontinue such water service. (Ord. 95-5, 3-30-95; Amended, Ord. No. 84, 2-20-07)

**Subd. 4. Repair of Leaks.** It is the responsibility of the consumer or owner to maintain the service pipe from the curb stop into the house or other building. In case of failure upon the part of any consumer or owner to repair any leak occurring in their service pipe within 24 hours after oral or written notice has been given the owner or occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid and the water service has been repaired. When the waste of water is great or when damage is likely to result from the leak, the water will be turned off if the repair is not proceeded with immediately. (Amended, Ord. No. 84, 2-20-07)

**Subd. 5. Abandoned Services Penalties.** All service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises, served by this service, shall pay the cost of the excavation. The City shall perform the actual disconnection and all pipe and appurtenances removed from the street right-of-way shall become the property of the City. When new buildings are erected on the site of old ones, and it is desired to increase the old water service, a new permit shall be taken out and the regular tapping charge shall be made as if this were a new service. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water, or to save expense in improperly removing such pipe from the main. Also, such improper disposition thereof shall be corrected by the City and the cost incurred shall be borne by the person causing or allowing such work to be performed. (Amended, Ord. No. 84, 2-20-07)

**Subd. 6. Service Pipes.** Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than seven feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the curb stop and the building shall be the responsibility of the owner. Service pipes must extend from the curb stops to the inside of the building; or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. A valve, the same size as the service pipe, shall be placed close to the inside wall of the building, ahead of the meter and well protected from freezing. Joints on copper tubing flared or compression-fitted, and kept to a minimum. Not more than one joint shall be used for a service up to 70 feet in length. All joints shall be left uncovered until inspected. Minimum size connection with the water mains shall be 3/4 inch in diameter. (Amended, Ord. No. 84, 2-20-07)

**Subd. 7. Private Water Supplies.** No water pipe of the City water system shall be connected with any pump, well, pipe, tank or device that is connected with any other source of water supply and when such are found, the City shall notify the owner or occupant to disconnect the same and, if not immediately done, the City water shall be turned off. Before any new connections to the City system are permitted, the City shall ascertain that no cross-connections will exist when the new connection is made. When a building is connected to "City Water" the private water supply may be used only for such purposes as the City may allow. (Amended, Ord. No. 84, 2-20-07)

**Subd. 8. Prohibited Uses or Restricted Hours.** Whenever the City shall determine that a shortage of water threatens the City, it may entirely prohibit water use or limit the times and hours during which water may be used from the City water system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses, or either or any of them. It is unlawful for any water consumer to cause or permit water to be used in violation of such determination after public announcement thereof has been made through the news media specifically indicating the restrictions thereof. (Amended, Ord. No. 84, 2-20-07)

**Subd. 9. Private Fire Hose Connections.** Owners of structures with self-contained fire protection systems may apply for permission to connect the street mains with hydrants, large pipes, and hose couplings, for use in case of fire only, at their own installation expense and at such rates as the Council may adopt by resolution as herein provided. (Amended, Ord. No. 84, 2-20-07)

**Subd. 10. Opening Hydrants.** It is unlawful for any person, other than members of the Fire Department or other person duly authorized by the City, in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the same or in any manner interfere therewith. It is also unlawful for any person so authorized to deliver or suffer to be delivered to any other person any hydrant key or wrench, except for the purposes strictly pertaining to their lawful use. (Amended, Ord. No. 84, 2-20-07)

**Subd. 11. Unmetered Service.** Unmetered service may be provided for construction, flooding skating rinks, and any other purpose. Such service shall be at a duly adopted rate. Where it is difficult or impossible to accurately measure the amount of water taken, unmetered service may be provided and the unmetered rate applied; provided, however, that by acceptance thereof the consumer agrees to have the City estimate the water used. In so estimating the City shall consider the use to which the water is put and the length of time of unmetered service. (Amended, Ord. No. 84, 2-20-07)

**Subd. 12. Water Meters.** All water meters shall be purchased by the property owner and maintained by the City. All repairs of water meters not resulting from normal usage shall be the responsibility of the property owner. Any other meter in need of replacement, shall be replaced with a remote type which shall be furnished and maintained by the City. All water meters shall be installed and controlled by the City and the cost of installation shall be the responsibility of the property owner. Any remote type meter in need of replacement by reason of normal usage shall be furnished and installed by the City, thereafter, the City shall own such meter. (Amended, Ord. No. 84, 2-20-07)

**Subd. 13. Code Requirement.** All piping, connections and appurtenances shall be installed and performed strictly in accordance with the Minnesota Plumbing Code. Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections shall, upon discovery by the City, be an additional ground for termination of water service to any consumer. (Amended, Ord. No. 84, 2-20-07)

**Subd. 14. Extensions and Water Connections to Extensions.**

**A.** Applicants who are owners of the premises not abutting on the water mains or laterals of the City who desire water service from the City shall install at their expense, water main or lateral extensions so as to provide water facilities for their premises. No person shall make any extension to a water main or lateral of the City except as provided in this Section. (Added, Ord. 84, 2-20-07)

**B.** After completion and acceptance of a water main or lateral extension, title to it shall be transferred and conveyed to the City by the owner (or owners) free and clear of any and all liens and encumbrances, without cost to the City, and thereafter the City shall assume all costs of maintenance and repair of such extension. (7-1-90; Added Ord. 84, 2-20-07)

**Subd. 15. Unpermitted Connection.** In the event a person connects a premise with the water system of the City without a permit, the City may impose a charge of $1000.00 along with billing any amounts determined to be due for water usage during the period in which the un permitted connection was operated. Such $1000.00 charge and any additional usage charges determined to be due will be billed with the next invoice for current usage charges. (Added, Ord 112, 12-07-11)

**(Sections 3.11 through 3.19, inclusive, reserved for future expansion.)**

(12-07-11)

**SEC.3.20. RULES AND REGULATIONS RELATING TO SEWERAGE SERVICE.**
**(CODIFIER'S NOTE**: The Appendices referred to in this Section are on file in the office of the City Administrator and open for inspection by the public.)

**Subd. 1. Definitions**. The following terms, as used in this Section, shall have the meanings stated. Where terms are not defined in this Section, the definition of terms and their use shall be in accordance with Glossary - Water and Wastewater Control Engineering, jointly prepared by APHA, ASCE, AWWA, and WPCF. The units of expression used are in accordance with those recommended in WPCF Manual of Practice Number 6, Units of Expression for Wastewater Treatment.

**1.** **"Accounts"** means the separate and distinct accounts within the Sewer Fund. These accounts shall be maintained in conformity with the Municipal Accounting Standards promulgated by the State of Minnesota and in accordance with governmental accounting, auditing, and financial reporting standards. The Sewer Fund shall include accounts for operation and maintenance, replacement, bonds payable and earnings retained for bond retirement.

**2.** **"Act"** means the Federal Water Pollution Control Act also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

**3.** "**Administrator**" means the Administrator of the U.S. Environmental Protection Agency.

**4.** **"Apartments"** means structures containing two or more dwelling units.

**5.** **"Applicant"** means a person (or persons) who is the owner (or owners) of premises who has made written application to the City for a permit to install or repair a house connection.

**6.** **"Biochemical Oxygen Demand (BODc)"** means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

**7.** **"Building Drain"** means that part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

**8.** **"Building Sewer"** means the extension from the building drain to the public sewer or other place of disposal, also called "House Connection".

**9.** **"Collector Sewer"** means those sewers which receive the flow from laterals and submains of the sanitary sewer system.

**10. "Combination Commercial and Dwelling Units"** means structures containing both commercial units and dwelling units.

**11. "Combined Sewer"** means a sewer intended to receive both wastewater and storm or surface water.

**12. "Commercial Customer" - (See "User Class")."**

**13. "Compatible Pollutant"** means the Biochemical Oxygen Demand, Total Suspended Solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES Permit if the publicly owned treatment facilities were designed to treat such pollutants and in fact does remove such pollutants to a substantial degree. Additional compatible pollutants may include oxygen demand, total organic carbon, phosphorus and phosphorus compound, nitrogen and nitrogen compounds, fats, oils and grease of animal or vegetable origin except as prohibited or limited herein.

**14. "Control Manhole"** means an observation and sampling point before the discharge to the public sewer system for use by the Superintendent. If such a point is not readily available, the first downstream public sewer system manhole shall be the control manhole.

**15. "Debt Service"** means charges levied on users for the repayment of principal and interest on outstanding Sewerage Revenue Bond issues.

**16. "Depreciation" - (See "Replacement").**

**17. "Director"** means the Chief Administrative Officer of the Minnesota Pollution Control Agency.

**18. "Domestic Waste"** means liquid wastes (1) from the non-commercial preparation, cooking and handling of food, or (2) containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

**19. "Easement"** means an acquired legal right for the specific use of land owned by others.

**20. "Extension"** means a sanitary sewer main or lateral installed by a person for the purpose of extending the original sanitary sewer mains or laterals of the City or the sewer mains or laterals of the City which had been extended from time to time.

**21.** **"Fecal Coliform**" means those members of the coliform group found in the feces of various warm-blooded animals.

**22.** **"Federal Grants"** means a contractual obligation of the United States for the payment of the Federal share of the allowable project costs, as determined by the Regional Administrator.

**23.** **"Fiscal Year"** means from January 1st to December 31st of the same year.

**24.** **"Garbage"** means the animal and vegetable waste resulting from handling, preparation, cooking and serving of foods. "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

**25.** **"House Connection"** means the sewer line or pipe extending from that part of the sewer connection located adjacent to the property line of the premises to be served, to the house or building to be served.

**26.** **"Incompatible Pollutant"** means any pollutant which is not a compatible pollutant as defined in this Section.

**27.** **"Industrial Wastewater"** means the liquid waste and solids resulting from the processes employed in industrial, manufacturing, trade or business establishments, or from the development of any natural resource, as distinct from domestic wastes. (Ord. 905, 10-1-84)

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

**27.2.** **"Infiltration/Inflow"** means the total quantity of water from both infiltration and inflow.

**27.3.** **"Inflow"** means water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash water, or drainage. (Ord. 7, Second Series, 2-6-92)

(2-1-05)

**28. "Interceptor Sewer"** means that portion of the sanitary sewer system which receives flows from laterals, submains, mains and collector sewers and transports said flows to the wastewater treatment works.

**29. "Interference"** means the inhibition or disruption of the wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the City's NPDES or State Disposal System Permit. The term includes prevention of sewage sludge use or disposal by the City in accordance published regulations providing guidelines under Section 405 of the Act (33 U.S.C. 1251, et. Seq.) or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the City.

**30. "Milligrams Per Liter (mg/1)"** means a measure of the concentration of pollutants in wastewater in terms of weight per unit volume.

**31. "National Pollutant Discharge Elimination System (NPDES) Permit"** means any permit or requirements issued by the Minnesota Pollution Control Agency (MPCA) pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq); for the purpose of regulating the discharge of sewage, industrial wastes, or other wastes under the authority of Section 402 of the Act.

**32. "Natural Outlet"** means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.

**33. "Non-Contact Cooling Water"** means the water discharged from any use such as air conditioning, cooling or refrigeration, during which the only pollutant added to the water is heat. (Ord. 905, 10-1-84)

**34. "Normal Domestic Strength"** means wastes which are primarily produced by residential users with the following concentrations:

$BOD_5$ 250 mg/1, Suspended Solids (SS) 375 mg/1 and phosphorus (P) 10 mg/1. (Ord. 7, Second Series, 2-6-92)

**35. "Operation and Maintenance Costs"** includes all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related Federal, State and local requirements. The annual cost of equipment replacement shall also be included in this cost.

**36.** **"Permits"** includes: (1) NPDES Permit which establishes various conditions including effluent requirements for the wastewater treatment works, and (2) Connection Permits (See Appendix B) for the purpose of allowing connection to the sanitary sewer system.

**37.** **"pH"** means the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions/in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10-7.

**38.** **"Phosphorus (P)"** means an element that while essential to life contributes to the eutrophication of lakes and other bodies of water.

**39.** **"Pretreatment"** means the process of reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the wastewater disposal system. The reduction, elimination, or alteration may be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by this Section.

**40.** **"Pretreatment Standards"** means all applicable Federal rules and regulations implementing Section 307 of the Federal Water Pollution Control Act (Pub. 1. 92-500) as amended to the effective date of this Section, as well as any non-conflicting State and local standards established in accordance with Section 307 of the Act. In cases of conflicting standards or regulations, the more stringent thereof shall be applied.

**41.** **"Private Wastewater Disposal System"** means any properly constructed disposal system intended solely for treatment of wastewaters from a single residence or a single building unit.

**42.** **"Replacement"** means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment facilities to maintain the capacity and performance for which such facilities were designed and constructed.

**43.** **"Residential Customer"-** (See "User Class-Residential User").

**44.** **"Sanitary Sewer"** means a sewer which carries sanitary and industrial waste and to which storm, surface and ground water are not intentionally admitted.

**45.** **"Sanitary Sewer Mains and Laterals"** means the sanitary sewer interceptors, mains and laterals constructed by or for the City.

**46.** **"Schools"** means school buildings, public or parochial. "Church" means a sanctuary for public worship. "Public Building" means a building owned by a public tax supported subdivision of the State of Minnesota.

**47.** **"Sewage"** means the combination of liquid and water carried waste from residences, commercial buildings, industrial plants and institutions (including polluted cooling water). The preferred term is "Wastewater".

**48.** **"Sewer"** means a pipe or conduit that carries wastewater or drainage water.

**49.** **"Sewer Connection"** means a sanitary sewer service line or pipe extending from a sanitary sewer main or lateral of the City to a point adjacent to the property line of the premises to be served.

**50.** **"Sewer Service Charge"** means the same as Wastewater Service Charge".

**51.** **"Significant Industrial User"** means any industrial user of the wastewater disposal system which (1) has a discharge flow 50,000 gallons or more per average work day, or (2) has a flow greater than 5% of the flow in the wastewater disposal system, or (3) has in its wastes toxic pollutants as defined pursuant to Section 307 of the Act or Minnesota Statutes and rules, or (4) has a significant impact, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

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

**53. "Standard Methods for the Examination of Water and Wastewater"** - The analytical and sampling methods used shall conform to 40 CFR, Part 136 as amended, which includes the latest edition of Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association.

**54. "State Disposal System Permit"** means any permit (including any terms, conditions and requirements thereof), issued by the MPCA pursuant to Minnesota Statutes, Section 115.07 for a disposal system as defined by Minnesota Statutes, Section 115.01, Subdivision 8.

**55. "Storm Drain"** (sometimes termed "Storm Sewer") means a drain or sewer for conveying water, ground water, subsurface water or unpolluted water from any source to which sanitary and/or industrial wastes are not intentionally admitted.

**56. ”Storm Water"** means any flow occurring during or immediately following any form of natural precipitation and resulting therefrom.

**57. "Superintendent"** means the Superintendent of the wastewater treatment system of the City.

**58. "Surcharge"** means charges to users of the system for discharges defined as average domestic wastes in addition to the normal wastewater service charge.

**59. "Total Suspended Solids"** means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by a standard laboratory filter.

**60. "Trailers"** means house trailers either movable or permanent located in trailer parks or trailer courts or located on a lot adjacent to a house.

**61. "Unpolluted Water"** means water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will not cause any violation of receiving water quality standards.

**62. "Useful Life"** means the period during which a treatment facility will operate.

**63. "User"** means any person who discharges, causes or permits the discharge of wastewater into the wastewater treatment system.

**64. "User Charge"** means a charge levied on users of a treatment facility for the cost of operation and maintenance and replacement of such facilities, pursuant to Section 204(b) of the Act.

**65. "User Class"** means the division of the wastewater users by waste characteristic, the processes or discharge similarities (example, residential, commercial, industrial, institutional, and governmental) in the User Charge System (UCS).

**A. "Commercial User"** means any establishment listed in the Office of Management and Budget "Standard Industrial Classification Manual (SICM)" (1972 edition) involved in a commercial enterprise, business or service which, based on a determination by the City, discharges primarily segregated normal domestic waste or waste from sanitary conveniences.

**B. "Governmental User"** means any Federal, State, or local government user of the wastewater treatment facilities.

**C. "Industrial User"** means any non-governmental user of the publicly owned treatment facilities identified in the Standard Industrial Classification Manual (SICM) (1972), Office of Management and Budget as amended and supplemented under the following subdivisions: Division A - Agriculture, Forestry, and Fishing; Division B - Mining; Division D - Manufacturing; Division E - Transportation, Communication, Electric, Gas, and Sanitary Services; and Division I - Services. An industrial user is also defined as a user who discharges to the wastewater disposal system, liquid wastes resulting from the processes employed in industry or manufacturing or from the development of any natural resource.

**D. "Institutional User"** means any establishment listed in the "SICM" involved in a social, charitable, religious, or educational function which, based on a determination by the City, discharges primarily segregated domestic waste or waste from sanitary conveniences.

**E. "Residential User"** means a user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached, semi-detached, and row houses, mobile homes, garden and standard apartments or permanent multi-family dwellings. (Transit lodging, considered commercial in nature, is not included).

**66. "User Classification"** means a classification of user based on the 1972 edition of the Standard Industrial Classification (SIC) Manual prepared by the United States Office of Management and Budget.

**67. "Wastewater"** means the liquid, semi-liquid, or solid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any ground water, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the treatment works.

**68. "Wastewater Facilities"** means the structures, equipment, and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

**69. "Wastewater Service Charge"** means the total charge levied on users including user charges and debt service charges.

**70. "Wastewater Treatment System or Systems"** means any devices, facilities, structures, equipment or works owned or used by the City for the purposes of the transmission, storage, treatment, recycling, and reclamation of industrial and domestic wastewater, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clearwell facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

**71. "Wastewater Treatment Works"** means an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "Waste Treatment Plant" or "Wastewater Treatment Plant" or "Water Pollution Control Plant".

**72. "Watercourse"** means a natural or artificial channel for the passage of water either continuously or intermittently.

**73. "Waters of the State"** means all streams, lakes, ponds, marshes, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

**Subd. 2. Prohibitions and Limitations on Wastewater Discharges.**

**A. Prohibited Discharges**. It is unlawful for any person to discharge, deposit or cause such discharge or deposit into the wastewater treatment system any wastewater which contains the following:

**1. Explosive Mixtures**. Liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the sewerage facilities or to the operation of the system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than 5% nor any single reading over 10% of the Lower Explosive Limit (L.E.L.) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, zylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

**2. Solid or Viscous Wastes.** Solid or viscous wastes which will or may cause obstruction to the flow in a sewer, or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.

**3. Toxic Pollutant.** Any toxic substances or pollutant in amounts exceeding standards as promulgated by the Administrator of the United States Environmental Protection Agency pursuant to Section 307 of the Federal Water Pollution Control Act (Pub. L. 92-500), and chemical elements or compounds, phenols or other taste- or odor-producing substances, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the system, or that will pass through the system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

**4. Corrosive Wastes.** Any waste which will cause corrosion or deterioration of the system. All wastes discharged to the wastewater treatment system must have a pH value in the range of (6) to (9) standard units. Prohibited materials include, but are not limited to, acids, sulfides, concentrated chloride and flouride compounds and substances which will react with water to form acidic products.

**B. Limited Discharges**. Except those so authorized by permit or agreement with the City, it is unlawful for any person to discharge, deposit or cause to be discharged or deposited into the wastewater system any of the following waste. Authorized discharges governed by permit or agreement shall include only those waste specifically allowed and in quantities or qualities as specifically allowed. The limited waste are:

**1. Oils and Grease.** (1) Oil and grease concentrations or amounts from industrial facilities violating pretreatment standards; (2) Wax, grease or oil concentration of mineral origin of more than 100 mg/1 whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees F (0 degrees and 65 degrees C) at the point of discharge into the system; (3) Total fat, wax, grease or oil concentration of more than 100 mg/1, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees F (0 degrees and 65 degrees C) at the point of discharge into the system.

**2. Noxious Material**. Noxious or malodorous solids, liquids, or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for its maintenance and repair.

**3. Improperly Shredded Garbage.** Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the system, with no particle greater than 1/2 inch in any dimension.

**4. Radioactive Wastes**. Radioactive wastes or isotopes of such half-life or concentration that they cause damage or hazards to the sewer facilities or personnel operating the system.

**5. Excessive Discharge Rate.** Wastewaters at a flow rate or containing such concentrations or quantities of pollutants that exceeds for any time period longer than 15 minutes more than five times the average 24 hour concentration, quantities or flow during normal operation by that person, that would cause a treatment process upset and subsequent loss of treatment efficiency in the system.

**6. Unpolluted Waters**. Any unpolluted waters including, but not limited to, water from cooling systems or of storm water origin, which will increase the hydraulic load on the wastewater treatment system.

**7. Discolored Material**. Wastes with objectionable color not removable within the wastewater system.

**8. Other Statutes.** Any wastewater which creates conditions at or near the wastewater disposal system which violate any statute or any rule, regulation or ordinance of any public agency or State or Federal regulatory body.

**9. Temperature**. Any wastewater having a temperature greater than 150 degrees F (65.6 degrees C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104 degrees F (40 degrees C).

**10. Slug Load.** Any slug load, which shall mean any pollutant, including oxygen demanding pollutants (BODg, etc.), released in a discharge of such volume or strength as to cause inhibition or disruption in the wastewater disposal system. In no case shall a slug load have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24 hour concentrations, quantities, or flow of the user during normal operation.

**11. Inert Solids**. Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such quantities that they would cause disruption with the wastewater disposal system.

**12. Waste Strength**. Any wastewater having a concentration greater than normal domestic strength unless expressly allowed as part of a discharge permit condition.

**13. Categorical Standards**. Any wastewater having a concentration or amount greater than a National Categorical Standard promulgated and established by the U.S. Environmental Protection Agency pursuant to the Act.

**14. Objectionable Materials.** Any wastewater having a waste or chemical concentration greater than the amount indicated in Appendix A unless expressly allowed as part of a Discharge Permit condition and does not exceed a National Categorical pretreatment Standard established by the U.S. Environmental Protection Agency.

**15. Roof Drains, Etc.** It is unlawful for any person to discharge or cause to be discharged any unpolluted waters such as storm water, ground water, roof runoff, subsurface drainage, or cooling water to any sanitary sewer.

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

**17. Sludges Generated.** Sludges, floats, skimmings, etc., generated by industrial or commercial pretreatment system shall not be placed into the wastewater disposal system. Such sludges shall be contained, transported, and disposed of in accordance with all Federal, State, and local regulations. (Ord. 905, 10-1-84)

**18.** No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Pretreatment Standards, or any State requirement. (Ord. 7, Second Series, 2-6-92)

**C. Unauthorized Connections.** No connection shall made to the sewerage system without the supervision of the Superintendent and the issuance of a permit by the City as provided herein and any connection to the system or opening made in the system in violation hereof is unlawful.

**Subd. 3. Control of Prohibited and Limited Waste.**

**A. Authorization for Special Permits/Agreements.** The City hereby reserves and decrees the right to issue special permits and/or agreements with any person for the controlled discharge of limited waste. Such permits and/or agreements may be issued only by an order of the Council and shall be in written form.

**B. Regulatory Actions.** If wastewaters containing any substance described as "Prohibited Discharges" or containing substances described as "Limited Discharges" without a valid permit or agreement or in case of an agreement in excess of the limits of said agreement are discharged or proposed to be discharged into the wastewater system, the City may take any action necessary to:

**1.** Prohibit the discharge of such wastewater.

**2.** Mandate the discharges to demonstrate that in plant modifications will reduce or eliminate the discharge of such substances so as to cease violations. (Ord. 905, 10-1-84)

**3.** Mandate pretreatment, pursuant to Section 307(b) of the Act and all addendums thereof, including storage facilities, or flow equalization necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations. (Ord. 7, Second Series, 2-6-92)

**4.** Mandate the person making, causing or allowing such discharges to pay any expense for additional treatment cost, any expense incurred to reestablish proper operation of the City facility and/or any loss, damage or expense imposed upon the City by any person or agency as a result of the discharge.

**C. Submission of Plans.** Where pretreatment or equalization of wastewater flows prior to discharge into any part of the wastewater treatment system is required, plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted to the Superintendent for review and approval by the Council. Such approval shall not exempt the discharge or such facilities from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to the Superintendent and prior approval of the Council.

**D. Pretreatment Facilities Operations.** If pretreatment or control of waste flows is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at their own cost and expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances, and laws.

**E. Admission to Property.** Whenever it shall be necessary for the purposes of these rules and regulations, the Superintendent, the Minnesota Pollution Control Agency, and the U.S. Environmental Protection Agency, upon the presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of (1) copying any records required to be kept under the provisions of this Section, (2) inspecting any monitoring equipment or method, and (3) sampling any discharge of wastewater to the treatment works. The Superintendent may enter upon the property at any hour under emergency circumstances.

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

**G. Industry Held Harmless**. While performing the necessary work on private properties referred to in Subparagraph E above, the Superintendent shall observe all safety rules applicable to the premises established by the industry, and the industry shall be held harmless for injury or death to the City employees, and the City shall indemnify the industry against loss or damage to its property by City employees and against liability claims and demands for personal injury, or property damage asserted against the industry to maintain safe conditions.

**H. Protection From Accidental or Slug Discharge**. Each industrial user shall provide protection from accidental discharge or prohibited materials or other wastes regulated by this Section. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director for review, and shall be approved by the Council before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify user’s facility as necessary to meet the requirements of this Section.

**I. Reporting of Accidental or Slug Discharge**. If, for any reason, a facility does not comply with or will be unable to comply with any prohibition or limitations in this Section, the facility responsible for such discharge shall immediately notify the Superintendent so that corrective action may be taken to protect the wastewater treatment system. In addition, a written report addressed to the Superintendent detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges, shall be filed by the responsible industrial facility within five days of the occurrence of the non-complying discharge.

**J. Grease, Oil, Mud, Etc., Interceptors Required.** Grease, oil and mud interceptors shall be provided when, in the opinion of the Council or the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Subdivision 2 hereof, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters, or dwelling units. All interceptors shall be of the type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintenance of these interceptors the users shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Council or the Superintendent. Any removal and hauling of the collected materials not performed by users' personnel must be performed by currently licensed waste disposal firms.

**Subd. 4. Sewer Connections, Sewer Extensions, and House Connections.**

**A. Authority for Making Sewer Connections.**

**1.** It is unlawful for any person to make any sewer connections to the sanitary sewer main or laterals of the City, except on written application filed with the Council and written acceptance thereof by the Council.

**2.** No new sewer connections will be made unless adequate capacity is available in downstream sewers, lift stations, force mains and wastewater treatment plants, including capacity for treatment of 8005 and Total Suspended Solids.

**B. Application for Sewer Connections**. Sewer connection to the sanitary sewer mains and laterals of the City located within the City shall be made by application filed with the Council as above provided and accepted by the Council in writing. The applicant for such sewer connection shall pay all costs of labor and materials for installing the sewer connection and installation may be made only after the issuance by the Council of a permit authorizing the sewer connection and specifying the size, grade and material thereof. Such sewer connection shall impose liability for a periodic sewer charge to be initially billed the owner at the next regular billing time after sewer service is rendered. The permit fee for such sewer connection shall be as provided for in this Chapter. After notification by letter, newspaper or public posting the property owner has 90 days in which to complete their tap-in.

**C. Extensions and Sewer Connections to Extensions.**

**1.** Applicants who are owners of the premises not abutting on the sewer mains or laterals of the City who desire sewer service from the City shall install at their expense, sewer main or lateral extensions so as to provide sewer facilities for their premises. No person shall make any extension to a sanitary sewer main or lateral of the City except as provided in this Section.

**2.** All extensions to the sewer mains or laterals of the City shall be made only after written application filed with the Council, approval as to size, grade and materials by the consulting engineers of the City and issuance by the City of a permit authorizing the same to be constructed and attached to the existing sewer mains or laterals of the City and thereupon said extensions shall become part thereof. There shall be no special permit fee for the construction of an extension to the City sewer main or laterals.

**3.** After completion and acceptance of a sewer main or lateral extension, title to it shall be transferred and conveyed to the City by the owner (or owners) free and clear of any and all liens and encumbrances, without cost to the City, and thereafter the City shall assume all costs of maintenance and repair of such extension.

**4.** Applicants making sewer connections to sewer main extensions or lateral extensions under the provisions of this Section, shall pay all costs of labor and materials for installing the same.

**5**. The permit fee for any sewer connection to a sewer main or lateral extension constructed under the provisions of this Section shall be the same as is provided for in other provisions of this Chapter.

**6**. Each sewer connection originating from an extension shall impose liability for a periodic sewer charge to be billed the owner with the next regular billing after such sewer service is rendered to the premises.

**7.** Performance Bond for Sewer Connection shall conform with the requirements of this Section.

**8**. Insurance for Sewer Connection shall conform to the requirements of this Section.

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**D. Requirements of Sewer Connections.**

**1. Persons Required to Connect to Wastewater Facilities.** Shall conform with this Chapter and rules and regulations as contained herein.

**2. Authority for Making and Repairing Sewer Connections.** It is unlawful for any person to make, install, repair, alter, disturb, uncover, open or break into any sewer connection to the sanitary sewerage system of the City without first obtaining an application filed with the Council, a written permit therefor issued by the Council.

**3. Costs Borne by Owner**. All costs and expenses incidental to the installation of a sewer connection shall be borne by the owners. The owners shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer connection.

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

**5. Wye or Tee Connections to Public Sewer Required.** The sewer connection into the public sewer shall be made at the "Wye" or "Tee" branch designated for that property, if available. Where "Wye" or "Tee" branches are not available, connections shall be made using approved drilled or sawed tap and saddle. Breaking of sanitary sewer will not be allowed. Procedures set forth in appropriate specifications of A.S.T.M. and W.P.C.F. Manual of Practices No. 9 shall be followed at all times. All such connections shall be made gastight and the prescribed procedures and materials must be approved by the Council and the Superintendent before installation.

**6. Changes in Ownership of Premises**. Irrespective of any change in ownership of premises, each parcel of real estate for which application for sewer connection has been filed and accepted by the City shall be liable for the payment of the periodic sewer charge hereinbefore provided.

**7. Size, Slope, Alignment, Materials and Construction Procedures.** The size, slope, alignment, and materials of construction of a sewer connection and the methods to be used in excavating and placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the City.

**(a) Size, Slope and Alignment of Sewer Connections.** The sewer connection shall be at least four inches in internal diameter, the slope or grade shall be at least one-eighth (1/8) inch to one foot. Alignment shall be in a straight line from the "Building Drain" to the "Tee" or "Wye" at the public sewer.

**(b) Materials**. The sewer connections shall be of extra heavy cast iron soil pipe (ASTM Specification A74), extra strength vitrified clay sewer pipe with pre-cast joints (ASTM Specification C700 w/ C425 joints), or PVC pipe (ASTM Specification D3034), all of latest specification issue date. Joints shall be made gas-tight and waterproof. If installed in filled or unstable ground, the sewer connection shall be of extra heavy cast iron soil pipe.

**(c) Trenching and Backfilling - Sewer Connections.** All excavations shall be open trench work unless otherwise authorized by the Council or the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settling of the pipes. If the foundation is of firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug to provide ample space for joints. Sand shall be used for all backfill within street rights-of-way and alleys and any other areas on City property as directed by the Superintendent. Care must be exercised in backfilling below the center line of the pipe in order to give it proper support. Backfilling shall be placed in layers and solidly tamped one foot above the pipe.

**(d) Safety.** All excavations for sewer connections and sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

**8. Unlawful Connection to Sewer Connections**.

**(a)** It is unlawful for any person to make connections of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a sewer connection or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such a connection is approved by the Council or the Superintendent.

**(b) Septic Tanks and Cesspools**. It is unlawful for any septic tank or cesspool to be connected to any portion of a sewer connection, and it is also unlawful for any owner or person in control of premises to install, construct, maintain or use a septic system or cesspool on premises from the time such premises commenced to use the sanitary sewerage system of the City.

**9. One Sewer Connection Per Building.** A separate and independent sewer connection shall be provided for every residence, commercial building, public building or apartment building. However, where one such building stands in the rear of another such building located on an interior lot, the sewer connection from the front building may be extended to the rear building upon issuance of a written permit by the Council.

**10. Use of Old Sewer Connections for a New Building**. Old sewer connections may be used in connection with new buildings only when they are found, on examination and test by the Council or the Superintendent, to meet all requirements of this Section. The owner shall bear the cost for these tests.

**11. Defective Sewer Connections**. Whenever a sewer connection is obstructed, or if found to be broken or defective so that sewage escapes therefrom into surrounding soil or adjacent premises, repair or replacement may be ordered by the Council or the Superintendent. Such repairs shall be at the expense of the owner or person in control of such property. When a part of a sewer connection is found to be broken or broken into, such break or leak shall be properly repaired by replacing the broken part with a corresponding new part. Patching of such break or leak is prohibited.

**12. Inspection and Approval of Sewer Connection**. The applicant for a sewer connection permit shall notify the City when the sewer connection installation or repair is ready for inspection and connection to the sanitary sewerage system of the City. The connection shall be made only under the supervision of the Council or the Superintendent. It is unlawful for a sewer connection to be covered or backfilled without prior inspection and approval by the Council or the Superintendent. The Council or the Superintendent shall have access at all reasonable times to all premises in the City for the purpose of inspecting or examining sewer connections.

**13. Performance Bond for Sewer Connections**. After the date of completion of the sanitary sewer system, no permit for a sewer connection or a sewer extension shall be issued by the Council unless the person applying therefor or the contractor shall have filed in the office of the City Clerk, a performance bond with corporate surety thereon in the sum of $1,000.00 for a sewer connection; and for a sewer extension, a sum equal to one and one-half (1-1/2) times the estimated cost of the work to be done. Such performance bond shall be approved by the Council, conditioned upon the applicant or contractor completing the sewer connection or sewer extension in a proper and workmanlike manner and indemnifying and saving harmless the City for any and all damage to any property of the applicant or to the sewer mains or laterals of the City and from any failure to restore any road, ditch, pavement, or portion thereof damaged during the construction of the sewer connection, or the sewer extension so as to insure that such property of said sewerage system or such property of the applicant, together with such road, ditch, pavement, or portion thereof damaged are left in as good condition as said applicant or contractor found them.

**14. Liability Insurance**. No permit for a sewer connection or a sewer extension shall be issued by the Council unless the person applying therefor or the contractor shall have first procured public liability insurance in an amount not less than $5,000.00 for injuries, including accidental death, to any one person and subject to the same limit for each person in an amount not less than $100,000.00 on account of one accident, and property damage insurance in an amount not less than $50,000.00. The persons to be indemnified and saved harmless in said insurance policy shall be the City and the applicant for sewer connection or sewer extension. A certificate of said insurance shall be filed with the City Clerk. In the event that an applicant proposed to personally install or repair their own sewer connection, no permit to install or repair such sewer connection shall be issued to applicant unless applicant has first procured insurance in the amounts aforesaid issued by an insurance company or companies approved by the Council indemnifying the City as aforesaid. Certificates of all insurance provided for in this Section shall be filed with the City Clerk prior to issuance of a permit.

**E. Adoption of Minnesota State Plumbing Code**. The minimum code of standards promulgated by the Department of Public Health of the State of Minnesota and the Minnesota State Plumbing Code Law are hereby incorporated by reference thereto as provided by "An Act authorizing municipalities to incorporate by reference and the provisions of nationally recognized technical codes and public records", approved July 16, 1953, as heretofore or hereinafter amended. Any part of this Section which is found to be in conflict with the Minnesota State Plumbing Code is hereby amended and superseded by said Code.

**1. Pipe Connection Prohibited**. No steam, exhaust, blow-off, or drip pipe shall be connected with the sanitary sewer, storm sewer, house drain, soil or waste pipe; such pipes shall be discharged into a tank or condenser from which suitable outlets into the sewer shall be provided.

**2. Refrigerator Drains**. Refrigerator drains shall not be connected directly to the sewer, but shall be trapped and drained into an open fixture, which shall in turn be connected to the sewer.

**3. Floor Drains**. Floor drains shall be of the deep seal pattern no less than a two and one-half (2-1/2) inch seal.

**4. Traps Required**. Every water closet, urinal, sink, basin, wash tray, bathtub and all other fixtures that require a waste connection to the sewer shall be separately trapped and vented above the highest fixture.

**5. Cistern Overflow**. The overflow from a cistern or well shall not be connected to the sanitary sewer system.

**Subd. 5. Industrial Wastewater Discharge Permit.**

**A. Wastewater Discharge Permits Required**. All significant industrial users proposing to connect to or discharge into any part of the wastewater treatment system must first obtain a Wastewater Discharge Permit. All existing significant industrial users connected to or discharging into any part of the City system must obtain a Wastewater Discharge Permit within 90 days from and after the effective date of this Section, except those users that have existing valid wastewater discharge contract.

**B. Permit Application**.

**1.** Users seeking a Wastewater Discharge Permit shall complete and file with the City Clerk an application on the form prescribed by the Council and accompanied by the required fee. In support of this application, the user shall submit the following information:

**(a)** Name, address, and location (if different from the address).

**(b)** SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.

**(c)** Volume of wastewater to be discharged.

**(d)** Wastewater constituents and characteristics including, but not limited to, those set forth in Appendix A of this Section as determined by a reliable analytical laboratory.

**(e)** Time and duration of discharge.

**(f)** Average and minute peak wastewater flow rates, including daily, monthly or seasonal variations, if any.

**(g)** Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation.

**(h)** Description of activities, facilities and plant processes on the premises including all materials and type of materials which are, or could be discharged.

**(i)** Each product produced by type, amount, and rate of production.

**(j)** Number and type of employees, and hours of work.

**(k)** Any other information as may be deemed by the Council to be necessary to evaluate the permit application.

**2.** The City will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

**C. Permit Conditions**. Wastewater Discharge Permits shall be expressly subject to all provisions of this Section and all other regulations, user charges and fees established by the City. The conditions of Wastewater Discharge Permits shall be uniformly enforced in accordance with this Section, and applicable State and Federal regulations. Permit conditions shall include the following:

**1.** The unit charge or schedule of user charges and fees for the wastewater to be discharged to the system.

**2**. The average and maximum wastewater constituents and characteristics.

**3.** Limits on rate and time of discharge or requirements for flow regulations and equalization.

**4.** Requirements for installation of inspection and sampling facilities, and specifications for monitoring programs.

**5.** Requirements for maintaining and submitting technical reports and plant records relating to wastewater discharges.

**6.** Daily average and daily maximum discharge rates, or other appropriate conditions when pollutants subject to limitations and prohibitions are proposed or present in the user's wastewater discharge.

**7.** Compliance schedules.

**D**. **Duration of Permits**. Permits shall be issued for a specified time period, not to exceed five years. A permit may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modification and change by the Council during the life of the permit, as limitations or requirements in the National Pollutant Discharge Elimination System (NPDES) Permit for the City are modified and changed.

**E. Transfer of a Permit**. Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

**F. Revocation of Permit**. Any user who violates the following conditions of their permit or of this Section, or of applicable State and Federal regulations, is subject to having their permit revoked. Violations subjecting a user to possible revocation of user's permit include, but are not limited to, the following:

**1.** Failure of a user to accurately report the wastewater constituents and characteristics of their discharge;

**2.** Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

**3.** Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,

**4.** Violation of conditions of the permit.

**G. Pretreatment**. Users shall provide necessary wastewater treatment as required to comply with this Section and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Section. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes. All records relating to compliance with pretreatment standards shall be made available by the City to officials of the EPA or MPCA upon request. Any user subject to a National Categorical Pretreatment Standard, after the Compliance date of such pretreatment standard, or, in the case of the commencement of a new discharge to the wastewater disposal system, shall submit to the City during the months of June and December, unless required more frequently in the pretreatment standard or by the City, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. The City may agree to alter the months during which the above reports are to be submitted.

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**H. Permit Modification**.

**1.** Any permit issued under this Section can be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standards or limitation issued or approved under Sections 301 (b)(2)(c) and (d), 304(b)(2), and 307(a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

**(a)** Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or,

**(b)** Controls any pollutant not limited in the permit.

**2.** The permit as modified or reissued under this Subparagraph shall also contain any other requirements of the Act then applicable. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

**I. Confidential Information.**

**1**. Information and data on a user obtained from applications, permits, monitoring programs and inspections shall be available to the public or other government agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

**2.** When requested by the person furnishing a report, and until such time as the information is determined not to be confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Section, the City's NPDES Permit, State Disposal System Permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "Confidential Business Information" on each page containing such information. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the Superintendent as confidential, shall not be transmitted to any governmental agency or to the general public by the City until and unless a ten day notification is given to the user.

**Subd. 6. Industrial Wastewater Monitoring and Reporting.**

**A. Discharge Reports.**

**1.** Every significant industrial user shall file a periodic Discharge Report at such intervals as are requested by the Council. The Council may require any other industrial users discharging or proposing to discharge into the wastewater treatment system to file such periodic reports.

**2.** The discharge report shall include information if requested, as follows:

**(a)** Nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, concentrations of controlled pollutants or other information which relates to the generation of waste.

**(b)** Chemical constituents and quantity of liquid materials stored on site even though they are not normally discharged.

**(c)** Wastewaters discharge peak rate and volume over a specified time period.

**(d)** Chemical analyses of wastewaters.

**(e)** Information on raw materials, processes, and products affecting wastewater volume and quality.

**(f)** Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.

**(g)** A plot plan of sewers of the user's property showing sewer and pretreatment facility location.

**(h)** Details of wastewater pretreatment facilities.

**(i)** Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

**3.** In addition to discharge reports, the Council may require information in the form of Industrial Discharge Permit Application or self-monitoring reports or both.

**4.** All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in this Section shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Superintendent. Each industrial user shall be responsible for the cost of monitoring, testing, analyzing, and reporting as required herein.

**B. Industrial Wastes Control Manhole**. When required by the Council or the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Council, or its authorized representative. The structure shall be installed by the user at user's expense and shall be maintained by user so as to be safe and accessible at all times.

**C. Records and Monitoring**.

**1.** All industrial users who discharge or propose to discharge wastewaters to the wastewater treatment system shall maintain such records of production and related factors, effluent flows, and pollutant amounts or concentrations as are necessary to demonstrate compliance with the requirements of this Section and any applicable State or Federal pretreatment standards or requirements.

**2.** Such records shall be made available upon request by the City or the Superintendent. All such records relating to compliance with pretreatment standards shall be made available to officials of the U.S. Environmental Protection Agency upon demand. A summary of such data indicating the industrial user's compliance with this Section shall be prepared quarterly and submitted to the Superintendent.

**3.** Upon request by the Council or the Superintendent for discharge reports, the owner or operator of any premises or facility discharging industrial wastewater into the system shall install at his own cost and expense suitable monitoring equipment to facilitate the accurate observation, sampling, and measurement of wastes. Such equipment shall be maintained in proper working order and kept safe and accessible at all times. The monitoring equipment shall be located and maintained on the industrial user's premises outside of the building.

**4.** When more than one user can discharge into a common sewer, the Council may require installation of separate monitoring equipment for each user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single matter, the Council may require that separate monitoring facilities be installed for each separate discharge.

**D. Inspection, Sampling and Analysis**.

**1**. **Compliance Determination**. Compliance determination with respect to prohibitions and limitations may be made on the basis of either instantaneous grab samples or composite samples of wastewater. Composite samples may be taken over a 24 hour period, or over a longer or shorter time span, as determined necessary by the City to meet the needs of specific circumstances.

**2.** **Analysis of Industrial Wastewaters**. Laboratory analysis of industrial wastewater samples shall be performed in accordance with the current edition of "Standard Methods, Methods for Chemical Analysis of Water and Waste", published by the U.S. Environmental Protection Agency or the "Annual Book of Standards, Part 23, Water, Atmospheric Analysis", published by the American Society for Testing and Materials. Analysis of those pollutants not covered by these publications shall be performed in accordance with current procedures established by the Minnesota State Department of Environmental Health.

**3.** **Sampling Frequency**. Sampling of industrial wastewater for the purpose of compliance determination with respect to prohibitions and limitations will be done at such intervals as the City may designate. However, it is the intention of the Council to conduct sampling for all industrial users at least once in every year.

**4.** The Superintendent and other authorized employees of the City, MPCA and EPA shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the wastewater treatment system in accordance with the provisions of this Section.

(2-1-05)

**Subd.7. Revocation of Permit and Termination of Service.**

**A. Notification of Violation**. Whenever the City finds that any person has violated or is violating the provisions of this Section, or requirements of that person's Wastewater Discharge Permit, the City may serve upon such person or by mail a written notice stating the nature of the violation and providing a reasonable time, not to exceed 30 days, for the satisfactory correction thereof.

**B. Show Cause Hearing**.

**1.** If the violation is not corrected by timely compliance, the City may order any person who causes or allows an unauthorized discharge to show cause before the Council why service should not be terminated or Wastewater Discharge Permit not be revoked. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the Council regarding the violation, and directing the offending party to show cause before the Council why an order should not be made directing the termination of service or revocation of permit. The notice of hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

**2.** The Council shall itself conduct the hearing and take the evidence.

**3.** At any public hearing, testimony taken before the hearing authority must be under oath. If a transcript is recorded, it will be made available to any member of the public or any party to the hearing upon payment of costs for the production of the transcript.

**4.** After the Council has reviewed the evidence, it may issue an order to the party responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are properly operated, and such further orders and directives as are necessary and appropriate.

**Subd. 8. Unlawful Acts**. It is unlawful for any person to maliciously, willfully, negligently or otherwise break, damage, destroy, uncover, deface, tamper or trespass upon any structure, equipment or other which is part of the City's wastewater system.

**Subd. 9. Legal Action.** Any discharge in violation of the substantive provisions of this Section or an Order of the Council is unlawful. If any person discharges sewage, industrial wastes or other wastes into the City treatment system contrary to the substantive provisions of this Section or any Order of the Council, the City Attorney shall commence an action for appropriate legal and equitable relief in the District Court of Goodhue County.

**Subd. 10. City's Right of Revision.** The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this Section.

**Subd. 11. Falsifying Information.** It is unlawful for any person to knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Section or Wastewater Discharge Permit, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this Section.

**Subd. 12. Filing.** A copy of this Section, properly certified by the City Clerk, shall be filed in the office of the County Recorder of Goodhue County and shall be deemed notice to all owners of real estate of their liability for service supplied to any user of the service of the sewerage system of the City on their properties, and it shall be the duty of the Mayor and such other officers of the City to take all action necessary or required by the laws of the State of Minnesota thereunto enabling to file all claims for money due to the City and to prosecute and enforce such claims in the manner, form and time as permitted by the laws of the State of Minnesota. (Ord. 905, 10-1-84)

**SEC. 3.21. WASTEWATER SERVICE CHARGES.**

**CODIFIER'S NOTE**: The Appendices referred to in this Section are on file in the office of the City Administrator and open for inspection by the public.

**Subd. 1. Connection Charges.** It is unlawful for any person to connect any premises with the sanitary sewer system of the City except upon the granting of a permit therefor by the Council or its authorized representative after submission of a written application. Said application shall be accompanied by a cash connection fee which fee shall be returned to the applicant should the permit be refused. (7-1-90)

**Subd. 2. Sewer Use and Service Charges.**

**A. Basis for Wastewater Service Charges.**

**1.** The wastewater service charges for the use of and for service supplied by the wastewater facilities of the City shall consist of a basic user charge and a surcharge, if applicable. The cost for treating Infiltration/Inflow will be recovered on the same basis as flow component of the user charge. Through further divisions, the monthly and quarterly debt service charges can be computed. The basic user charge shall be based on water usage as recorded by water meters and/or sewage meter for wastes having the following normal concentrations:

**(a)** A five day, 20 degree centigrade (20 degree C) biochemical oxygen demand (BOD^) of 250 mg/1.

**(b)** A total suspended solids (TSS) content of 375 mg/1.

**(c)** A total phosphorus solids (P) content of 10 mg/1. (Ord. 7, Second Series, 2-6-92)

**1A.** By approval of the Council, water which is separately metered and does not, nor has any potential to, enter the wastewater system of the City, shall not be subject to the Basic User or Debt Service Charges herein provided for. (Ord. 3, Second Series, 4-1-90)

**B. Basis for Wastewater Surcharge Service Charges.** A surcharge will be levied to all users whose waters exceed the normal concentrations for $BOD_5$ (250 mg/1), TSS (375 mg/1), and Total Phosphorus (P) (10 mg/1). The surcharge will be based on water usage as recorded by water meters and/or sewage meters for all wastes which exceed the 250 mg/1, 375 mg/1, and the 10 mg/1 concentrations for BODc, TSS, and P, respectively. The surcharge will be computed as follows (See Sewer Service Charge System Report).

**1.** Proportion the estimated costs to wastewater facility categories by Volume, Total Suspended Solids, BODc, and P, if possible.

**2.** Compute surcharge costs per 1,000 gal, per mg/1 in excess of normal sewage strength for BODc, TSS, and P. (Ord. 7, Second Series, 2-6-92)

**C. Measurement of Flow.** The volume of flow used for computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of 100 gallons.

**1.** If the person discharging wastes into the public sewers procures any part, or all, of their water from sources other than the Public Waterworks System, all or a part of which is discharged into the public sewers, the person shall install and maintain, at their expense, water meters of a type approved by the City for the purpose of determining the volume of water obtained from these other sources.

**2.** Devices for measuring the volume of waste discharged may be required by the City if these volumes cannot otherwise be determined from the metered water consumption records.

**3.** Metering devices for determining the volume of waste shall be installed, owned, and maintained by the person. Following approval and installation, such meters may not be removed unless service is cancelled, with the consent of the City.

**D. Industrial Users.** Where applicable, sewer use and sewer service charges may be determined by special agreement or permit. However, no such charges shall be less than those provided for herein which are calculated on a proportionate basis and Section 204 (b) of the Clean Water Act.

**E. Debt Service Charge.** Debt Service for non-industrial users is based on water meter size. Debt Service for industrial users is based on plant capacity allowed through special permit. (7-1-90)

**F. Surcharge Rate.** The rates of surcharges for TSS, and P shall be shown in Sewer Service Charge System Report. Initial surcharge rate shall be as adopted by resolution. For annual calculations of above items, see Sewer Service Charge System Report.

**G. Computation of Surcharge.** The concentration of wastes used for computing surcharges shall be established by waste sampling. Waste sampling shall be performed as often as may be deemed necessary by the City and shall be binding as a basis for surcharges. The formula used for surcharge computation is as shown in Sewer Service Charge System Report.

**H. Computation of Wastewater Service Charge.** The wastewater service charge shall be computed by the formula in Sewer Service Charge System Report. (Ord. 7, Second Series, 2-6-92)

**I. Unusual Sewage.** In the case of any user disposing sewage of unusual strength or quantity, the Council shall cause an investigation to be made and upon a determination of facts shall establish charges that are consistent with other sewer service charges and which reflect the cost associated with the treatment of such unusual sewage. These charges may be embodied in a special agreement or may be provided for within the ordinance. (7-1-90)

**J.** Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger of said wastes, at no expense to the City.

**K. Free Service.** No free service of the sewerage system of the City shall be furnished to any person, firm, organization or corporation, public or private. (Ord. 7, Second Series, 2-6-92)

**Subd. 3. Sewer Fund.** There is hereby created a separate account with the Proprietary Fund of the City to be designated the Sewer Fund. This Fund shall have accounts appropriate for the collection of all charges of the wastewater facility. This Fund shall also contain expenditure accounts for all cost associated with the wastewater facility. All surplus monies of the Fund shall be maintained within said Fund and shall not be used for any other purposes. (7-1-90)

**(Sections 3.22 through 3.98, inclusive, reserved for future expansion.)**

**SEC. 3.99. VIOLATION A MISDEMEANOR**. Every person violates a section, subdivision, paragraph or provision of this Chapter when they perform an act thereby prohibited or declared unlawful, or fail to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. (7-1-90)

## SUB-ANALYSIS

### Title

**CHAPTER 4 CONSTRUCTION LICENSING, PERMITS AND REGULATION**


Section

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- Subd. 2 Application, Administration and Enforcement
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(03-01-11)

## CHAPTER 4 CONSTRUCTION LICENSING, SIGNS, PERMITS AND REGULATION

**SEC 4.01. BUILDING CODE**. (Ord. 95-6; Repealed, Ord. 97, Second Series, 1-20-09; Added, Ord. 97, Second Series, 1-20-09)

**Subd. 1. Codes Adopted by Reference.** The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes, Chapter 326B, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this Section. The Minnesota State Building Code is hereby incorporated in this Section as if fully set out herein.

**Subd. 2. Application, Administration and Enforcement.** The application, administration, and enforcement of the Code shall be in accordance with Minnesota State Building Code. The Code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, Section 326B.121, when so established by this Section. This Code shall be enforced by the Minnesota Certified Building Official designated by the City to administer the code pursuant to Minnesota Statutes, Section 326B.133, Subdivision 1.

**Subd. 3. Permits and Fees.** The issuance of permits and the collection of fees shall be as authorized in Minnesota Rules, Chapter 1300, Permit fees shall be assessed for work governed by this Code in accordance with the fee schedule adopted by the City. In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with Minnesota Statutes, Section 326B.148.

**Subd. 4. Violations and Penalties.** A violation of the Code is a misdemeanor pursuant to Minnesota Statutes, Section 326B.082, Subdivision 16.

**Subd. 5. Minnesota Electrical Act.** (Added, Ord. 111, Second Series, 12-07-11)

**Section 1.** **Authority to inspect.** The City of Pine Island hereby provides for the inspection of all electrical installations, pursuant to Minn. Stat. § 326B.36. subd.6.

**Section 2.** **Adopted by reference.** The Minnesota Electrical Act, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes Chapter 326B, Sections 326B.31 to 326B.399. The Minnesota Electrical Act is hereby incorporated into this ordinance as if fully set out herein. The Minnesota State Building Code incorporates by reference the National Electrical Code pursuant to Minn. R. 1315.0020. All such codes incorporated herein by reference constitute the electrical code of the City of Pine Island.

**Section 3.** **Compliance.** All electrical installations shall comply with the requirements of the electrical code of the City of Pine Island and this ordinance.

**Section 4.** **Permits and fees.** The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes 326B.37. Any inspection or handling fees will be payable to the City of Pine Island in accordance with the existing fee structure.

**Section 5.** **Notice and appeal.** All notices of violations and orders issued under this ordinance shall be in conformance with Minn. Stat. § 326B.36, subd. 4.

**Section 6.** **Violations and penalties.** A violation of the Minnesota Electrical Act is a misdemeanor. (M.S. 326B.082, subd. 16).

**Section 7.** **Sunset.** This ordinance shall be in effect upon adoption and revoked by future action of the City Council of the City of Pine Island.

**SEC. 4.02. BUILDING PERMITS REQUIRED.** It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or any part or portion thereof, including, but not limited to, the plumbing, electrical, ventilating, heating or air conditioning systems therein, or cause the same to be done, without first obtaining a separate building or mechanical permit for each such building, structure or mechanical components from the City. (7-1-90)

(12-07-11)

**SEC. 4.03. PERMITS AND FEES.** (Ord. 95-6, 4-27-95; Repealed, Ord. 97, Second Series, 1-20-09)

**SEC. 4.04. PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.**

**Subd. 1. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**A.** **"Highway"** means a public thoroughfare for vehicular traffic which is a State trunk highway, County State-aid highway, or County road.

**B.** **"Street"** means a public thoroughfare for vehicular traffic which is not a State trunk highway, County State-aid highway or County road.

**C.** **"Moving Permit"** means a document allowing the use of a street or highway for the purpose of moving a building.

**D.** **"Highway Moving Permit"** means a permit to move a building on a highway for which a fee is charged which does not include route approval, but does include regulation of activities which do not involve the use of the highway; which activities include, but are not limited to, repairs or alterations to a municipal utility required by reason of such movement.

**E.** **"Street Moving Permit"** means a permit to move a building on a street for which a fee is charged which does include route approval, together with use of the street and activities including, but not limited to, repairs or alterations to a municipal utility required by reason of such movement.

**F.** **"Combined Moving Permit"** means a permit to move a building on both a street and a highway.

**Subd. 2. Application.** The application for a moving permit shall state the dimensions, weight, and approximate loaded height of the structure or building proposed to be moved, the places from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and address of the mover, and the municipal utility and public property repairs or alterations that will be required by reason of such movement. In the case of a street moving permit or combined moving permit the application shall also state the size and weight of the structure or building proposed to be moved and the street alterations or repairs that will be required by reason of such movement.

**Subd. 3. Permit and Fee.** The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the State of Minnesota, except that a permit may be issued to a person moving their own building, or a person moving a building which does not exceed 16 feet in width, 24 feet in length, or 14 feet in loaded height. Provided, that any person moving their own building under the foregoing provision shall be responsible for all damages to property, public or private. Fees to be charged shall be separate for each of the following: (1) a moving permit fee to cover use of streets and route approval, and (2) a fee equal to the anticipated amount required to compensate the City for any municipal utility and public property (other than streets) repairs or alterations occasioned by such movement. All permit fees shall be paid in advance of issuance.

**Subd. 4. Building Permit and Code Compliance.** Before any building is moved from one location to another within the City, or from a point of origin without the City to a destination within the City, regardless of the route of movement, it shall be inspected and a building permit shall have been issued for at least the work necessary to bring it into full compliance with the State Building Code.

**Subd. 5. Unlawful Acts.**

**A.** It is unlawful for any person to move a building on any street without a moving permit from the City.

**B.** It is unlawful for any person to move a building on any highway without a highway moving permit from the City.

**C.** It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the City, and regardless of the route of movement, without having paid in full all real and personal property taxes, special assessments and municipal utility charges due on the premises of origin and filing written proof of such payment with the City.

## SEC. 4.05. UNDERGROUND UTILITY CONSTRUCTION.

**Subd. 1. Underground Construction Required.** All utility lines hereafter installed, constructed or otherwise placed within the City for electric, telephone, TV cable or other like or similar services to serve residential, commercial and industrial customers in newly platted areas, and which utilize metallic conductors to carry electric current, whether owned, installed or constructed by the supplier, consumer or any party, shall be installed and placed underground, subject only to the exceptions hereinafter stated; however, above-ground placement, construction, modification or replacement of meters, gauges, transformers, street lighting and service connection pedestals shall be allowed. The requirements of this Section shall apply equally outside of the corporate limits of the City coincident with City jurisdiction of platting, subdivision regulation or comprehensive planning as may now or in the future be allowed by law. All companies installing and operating lines such as those described herein shall be referred to as "utility companies" for purposes of this Section.

**Subd. 2. Exceptions to Application.** The following exceptions to the strict applicability of this Section shall be allowed upon the conditions stated:

**A. Transmission Lines.** Above-ground placement, construction, modification or replacement of those lines commonly referred to as "high voltage transmission lines" upon which the conductor's normal operating voltage equals or exceeds 23,000 volts (phase to phase) shall be allowed; provided, however, that 60 days prior to commencement of construction of such a project, the City shall be furnished notice of the proposed project and, upon request, the utility company involved shall furnish any relevant information regarding such project to the City. This Section shall not be construed as waiving the requirements of any other ordinance or regulation of the City as the same may apply to any such proposed project.

**B. Technical and Economic Feasibility.** Above-ground placement, construction, modification or replacement of lines shall be allowed in residential, commercial and industrial areas where the Council, following consideration and recommendation by the Planning Commission, finds that:

**1.** Underground placement would place an undue financial burden upon the landowner or the utility company or deprive the landowner of the preservation and enjoyment of substantial property rights; or,

**2.** Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions which adversely affect underground utility placement.

**C. Temporary Service.** Above-ground placement of temporary service lines shall only be allowed:

**1.** During the new construction of any project for a period not to exceed 24 months;

**2.** During any emergency to safeguard lives or property within the City;

**3.** For a period of not more than seven months when soil conditions make excavation impractical.

**Subd. 3. Repair and Maintenance of Existing Installations.** Nothing in this Section shall be construed to prevent repair, maintenance, replacement or modification of existing overhead utility lines.

**Subd. 4. Developer Responsibility.** All owners, platters or developers are responsible for complying with the requirements of this Section, and prior to the final approval of any plat or development plan, shall submit to the Planning Commission written instruments from the appropriate utility companies showing that all necessary arrangements with said companies for installation of such utilities have been made.

**Subd. 5. Placement.**

**A.** All utility lines shall be placed within appropriate easements or dedicated public ways so as to cause minimum conflict with other underground services. Whenever feasible, all utilities shall be placed within the same trench.

**B.** All utility companies shall submit annually to the Building Inspector current maps revealing locations of underground installations, whether such installations were installed prior to the effective date of this Section or hereafter. (7-1-90)

**SEC. 4.06. CONTIGUOUS TERRITORY.** The City hereby extends its enforcement of the State Building Code to contiguous unincorporated territory two miles distant from the corporate limits of the City in all directions. (Ord. 95-6, 4-27-95)

**(Sections 4.07 through 4.09, inclusive, reserved for future expansion.)**

**SEC. 4.10. SIGN REGULATIONS. (CODIFIER'S NOTE:** Sign Regulations now found in Chapter 11 of the City Code, Section 11.71.)

**(Sections 4.11 through 4.19, inclusive, reserved for future expansion.)**

**SEC. 4.20. ADDITIONAL STRUCTURAL REQUIREMENTS.**

**Subd. 1. Foundations.** Any structure designed to be used as a dwelling shall be placed on a foundation constructed of masonry, concrete or treated wood. All footings supporting the foundation shall be constructed of solid masonry or concrete, except a treated wood foundation shall be on a treated wood footing, placed at a minimum depth of three feet six inches below the finished grade. Provided, that this Subdivision shall not apply to a building constructed on a reinforced concrete slab if such slab forms the ground floor of the dwelling. (7-1-90)

**Subd. 2. Exterior of All Buildings.** The exposed exterior of all buildings shall be brick, solid masonry or concrete, or colored steel, wood or masonite siding.

**Subd. 3. Exception.** This Section shall not apply to manufactured homes in manufactured home parks licensed by the State.

**(Sections 4.21 through 4.29, inclusive, reserved for future Expansion.)**

**SEC. 4.30. INSTALLATION OF RAPID ACCESS KEY BOXES, KEY SWITCHES, SECURITY PADLOCKS, AND SECURITY CONNECTION CAPS.**

**Subd. 1. Purpose.** It is the intention of the City of Pine Island to establish a uniform system to allow the Pine Island Fire Department to access structures while preventing damage through forceful entry and to allow swift access to structures when not occupied or the occupant is not able or available to provide access.

**Subd. 2. Definitions.**

**FIRE OFFICIAL:** shall refer to the Fire Chief or his designee

**RESPONSIBLE PARTY:** shall refer to the person(s) charged with the responsibility for the occupancy.

**KEY BOX:** shall refer to a UL type box, size and style, approved by the Fire Official.

**KEY SWITCH:** shall refer to a UL type switch, approved by the Fire Official.

**SECURITY CAP:** shall refer to an FDC Cap approved by the Fire Official

**SECURITY PADLOCK:** shall refer to a UL type padlock approved by the Fire Official.

(11-23-11)

**Subd. 3. Application:**

**A. MANDATORY KEY BOXES FOR FIRE SUPPRESSION AND STANDPIPE SYSTEMS.**
When a building is protected by an automatic fire suppression and/or standpipe system, it shall be equipped with a Key Box, installed at a location approved by the Fire Official.

**B. MANDATORY KEY BOXES FOR AUTOMATIC ALARM SYSTEMS.**
When a building is protected by an automatic alarm system and or access to or within a building, or an area within that building, is unduly difficult because of secured openings, and where immediate access is necessary for life saving or firefighting purposes, it shall be equipped with a Key Box, to be installed at a location approved by the Fire Official.

**C. AUTOMATIC GATES.**
When a property is accessed through a gate or cross arm by means of a key or swipe card, it shall be equipped with a Key Switch, to be installed at a location approved by the Fire Official.

**D. SECURITY PADLOCK.**
When a property is protected by a locked fence or gate and where immediate access to the property is necessary for life saving and firefighting purposes, it shall be equipped with a Security Padlock, to be installed at a location approved by the Fire Official. It shall then be the responsibility of the Responsible Party to see that the fence or gate is secured properly, so that the Security Padlock is accessible.

**E. CONSTRUCTION SITES.**
When a construction site is to be secured by a locked fence or gate, that site will fall under Section 2 Subsection D, during the duration of construction, or until said fence or gate is removed. The Security Padlock will be obtained by placing a security deposit with the Deputy Clerk of the City of Pine Island, in an amount set to cover replacement of said Security Padlock should it be lost or damaged. Once the deposit has been made, a Fire Official will come to the construction site and explain the use of the Security Padlock to any persons needing knowledge of its operation, and secure the Security Padlock. It shall then be the responsibility of the construction company to see that the fence or gate is secured properly, so that the Security Padlock is accessible.

**F. SECURITY CAPS.**
When a building is protected by an automatic sprinkler and/or standpipe system and the fire department connection is exposed to undue vandalism the Fire Official may require that a Security Cap be installed.

**G. NON-APPLICABILITY TO CERTAIN DWELLINGS.**
This ordinance shall not apply to one and two family dwellings.

**H. KEY BOX CONTENTS.**

The Key Boxes shall contain, but not be limited to, the following items as designated by the Fire Official.

1. Labeled Keys to locked points of egress, whether in interior or exterior of such buildings.
2. Labeled Keys to the locked mechanical rooms.
3. Labeled Keys to any fence or secured areas, not covered in Subd. 3., Subsections C, D, or E.
4. Labeled Keys to any other areas that may be required by the Fire Official.
5. A card containing the emergency contact people and phone numbers for such building.
6. Floor plans of the rooms within the building may also be required, showing locations of shut offs.
7. Hazardous Materials information may also be required.

**I. ALERT DECALS.**

Alert Decals approved by the Fire Official, to alert fire companies of the presence of security features covered by this ordinance, will be displayed on any outside doors, or windows as designated by the Fire Official.

**J. COMPLIANCE.**

All newly constructed buildings, not yet occupied or buildings currently under construction and all buildings or businesses applying for a certificate of occupancy, and/or building permits will be required to comply with this ordinance. The cost of purchasing and installing, along with any cost associated with implementation of the program at a specific property will be borne by the Responsible Party.

**Subd. 4. Violations:** A person who violates a provision of this ordinance shall be guilty of a misdemeanor, provided that no person shall be convicted unless such person has been given written notice of the violation and a reasonable time to comply.

**(Sections 4.31 through 4.98, inclusive, reserved for future Expansion.)**

**SEC. 4.99. VIOLATION A MISDEMEANOR**. Every person violates a section, subdivision, paragraph or provision of this Chapter when they perform an act thereby prohibited or declared unlawful, or fail to act when such failure is thereby prohibited or declared unlawful, or perform an act prohibited or declared unlawful or fail to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. (7-1-90)

**SUB-ANALYSIS**

**Title**

**CHAPTER 5 ALCOHOLIC BEVERAGES LICENSING AND REGULATION**


Section

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(12-15-09)

# CHAPTER 5
# ALCOHOLIC BEVERAGES LICENSING AND REGULATION

**SECTION 5.01. DEFINITIONS**. As used in this Chapter, unless otherwise stated in specific sections, the following words and terms shall have the meanings stated:

**1.** **"Alcoholic Beverage"** means any beverage containing more than one-half of one percent alcohol by volume, including, but not limited to, beer, wine, and liquor as defined in this Section.

**2.** **"Applicant"** means any person making an application for a license under this Chapter.

**3.** **"Application"** means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business. (7-1-90)

**3.1.** **"Bed and Breakfast Facility"** (when license is not required) means a place of lodging that (1) provides not more than eight rooms for rent to no more than 20 guests at a time, (2) is located on the same property as the owner's personal residence, (3) provides no meals, other than breakfast served to persons who rent rooms, and (4) was originally built and occupied as, or was converted to, a single family residence prior to being used as a place of lodging. (6-25-98)

**4.** **"Beer"** means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. (This definition includes so-called "malt coolers" with the alcoholic content limits stated herein.) (7-1-90)

**4.1.** **"Brew on Premises Store"** means a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. (6-25-98)

**5.** **"Brewer"** means a person who manufactures beer for sale.

**6.** **"Club"** means an incorporated organization organized under the laws of the State for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which: (1) has more than 50 members; (2) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body. Such club or congressionally chartered veterans' organization must have been in existence for at least three years.

**7.** **"Commissioner"** means the Minnesota Commissioner of Public Safety. (7-1-90)

**7.1.** **"Home Brewing Equipment"** means portable equipment designed for use in home manufacturing of malt liquor in quantities of ten gallons or less and supplies and ingredients for home manufacture of malt liquor.

**8.** **"Hotel"** means an establishment where food and lodging are regularly furnished to transients and which has: (1) a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and (2) at least ten guest rooms. (6-25-98)

**9.** **"License"** means a document, issued by the City, to an applicant permitting him to carry on and transact the business stated therein.

**10.** **"Licensee"** means an applicant who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension, from the City for carrying on the business stated therein.

**11.** **"License Fee"** means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein. (7-1-90)

**12.** **"Licensed Premises"** means the space or structure described in the issued license. In the case of a restaurant or a club licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated. (6-25-98)

**13.** **"Liquor"** means ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight. (This definition includes so-called "wine coolers" and "malt coolers" with the alcoholic content limits stated herein.)

**13.1.** **"Liquor Store"** means an establishment, other than a hotel, restaurant, club or bowling alley, used primarily for the sale of alcoholic beverages and other items authorized in Minnesota Statutes, Section 340A.412, subdivision 14. (Added, Ord. No. 82, 2/21/06)

**14.** **"Malt Liquor"** means any beer, ale, or other beverage made from malt by fermentation and containing not less than one- half of one percent alcohol by volume.

**15.** **"Manufacturer"** means every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

**16.** **"Minor"** means any natural person who has not attained the age of 21 years.

**17.** **"Off-Sale"** means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

**18.** **"On-Sale"** means the sale of alcoholic beverages for consumption on the licensed premises only.

**19.** **"Package" and "Original Package"** means any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.
Source: (7-1-90)

**19.1.** **"Premises Dance License"** means a license issued to a holder of a beer, liquor or wine on-sale license permitting entertainment provided by a licensed professional dancer or dancers.

**20.** **"Restaurant"** means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for 50 guests. (6-25-98)

**21.** **"Sale", "Sell" and "Sold"** means all barters and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.

**22.** **"Wholesaler"** means any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse. (7-1-90)

**24.** **"Wine"** means the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake. (This definition includes "wine coolers" with the alcoholic content limits stated herein.) For purposes of on-sale wine licenses, "wine" may contain up to 14% alcohol by volume for consumption with the sale of food. For all other purposes, "wine" is a product containing not less than one-half of one percent nor more than 24% alcohol by volume for non-industrial use. (6-25-98)

**SEC. 5.02. APPLICATIONS AND LICENSES UNDER THIS CHAPTER - PROCEDURE AND ADMINISTRATION.**

**Subd. 1. Application.** All applications shall be made at the office of the City Administrator upon forms prescribed by the City, or if by the Commissioner, then together with such additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. Every application for the issuance or renewal of an alcoholic beverage license must include a copy of each summons received by the applicant during the preceding year under Minnesota Statutes, Section 340A.802.

**Subd. 2. False Statements.** It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part thereof.

**Subd. 3. Application and Investigation Fees.** At the time the initial application is made, an applicant for a license under this Chapter shall accompany such application with payment of a fee to be considered an application and investigation fee, not refundable to the applicant, to cover the cost of the City in processing the application and the investigation of the applicant. No such fee shall be required of an applicant for a temporary beer license.

**Subd. 4. Action.**

**A. Granting.** The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter. Prior to consideration of any application for a license, the applicant shall pay the license fee, and if applicable, pay the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before consideration by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.

**B. Issuing.** If an application is approved, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the City or the Commissioner, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.

**C. Transfer**. No license shall be transferable between persons or to a different location. Any change in individual ownership, incorporation, or substitution of partners is a transfer. It is unlawful to make any transfer in violation of this Subparagraph.

**D. Refusal and Termination.** The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.

**E. Public Interest.** No license under this Chapter may be issued, transferred, or renewed if the results of any investigation show, to the satisfaction of the Council, that such issuance, transfer, or renewal would not be in the public interest. (7-1-90)

**F. Revocation or Suspension.** For any license granted under the provisions of this Chapter, the Council may revoke, suspend for a period not to exceed 60 days, impose a civil fine not to exceed $2,000.00, or any combination of these sanctions, for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the City Code relating to alcoholic beverages. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or if such revocation is mandatory by Statute. If it shall be made to appear at the hearing thereon that such violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third such violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this Chapter, and in addition to grounds for revocation or suspension stated in the City Code or Statute, the following shall also be grounds for such action: (1) that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor; (2) that the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police; (3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts upon licensed premises; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare. (6-25-98)

**G. Corporate Applicants and Licensees.** A corporate applicant, at the time of application, shall furnish the City with a list of all persons that have an interest in such corporation and the extent of such interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Administrator in writing of any change in legal ownership, or beneficial interest in such corporation or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked 30 days after any such change in ownership or beneficial interest of shares unless the Council has been notified of the change in writing and has approved it by appropriate action. The Council, or any officer of the City designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.

**Subd. 5. Duplicate Licenses.** Duplicates of all original licenses under this Chapter may be issued by the City Administrator without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of the fee adopted by resolution of the Council for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

**Subd. 6. Posting.** All licensees shall conspicuously post their licenses in their places of business.

**Subd. 7. Resident Manager or Agent.** Before a license is issued under this Chapter to an individual who is a non-resident of the City, to more than one individual whether or not they are residents of the City, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the City as its manager or agent. Such resident manager or agent shall, by the terms of his written consent, (1) take full responsibility for the conduct of the licensed premises, and, (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to be a resident of the City or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension. (7-1-90)

**Subd. 8. Persons Disqualified.**

**A.** No license under this Chapter may be issued, or renewed, to: (1) a person who within five years of the license application has been convicted of any felony or a willful violation of a Federal or State law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages; (2) a person who has had an alcoholic beverage license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than 5% of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; (3) a person under the age of 21 years; or, (4) a person not of good moral character and repute.

**B.** No person holding a license from the Commissioner as a manufacturer, brewer (except as provided by statute), wholesaler or importer, may have a direct or indirect interest, in whole or in part, in a business holding an alcoholic beverage license from the City.
(Ordinance No. 36, Second Series, 6-25-98)

**SEC. 5.03. RENEWAL LICENSE APPLICATIONS.** Applications for renewal of all licenses under this Chapter shall be made at least 60 days prior to the date of expiration of the license, and shall contain such information as is required by the City. Any applicant making application during such 60-day period shall pay such additional amount as may be fixed by the Council.

**SEC. 5.04. DELINQUENT TAXES AND CHARGES.** No license under this Chapter shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or other financial claims of the City, are owed and are delinquent and unpaid.

**SEC. 5.05. CONDITIONAL LICENSES.** Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such special conditions and restrictions, in addition to those stated in this Chapter, upon any license as it, in its discretion, may deem reasonable and justified. (7-1-90)

**SEC. 5.06. PREMISES LICENSED.** A license issued under the provisions of this Chapter shall be valid only for the premises described in the license, and all transactions relating to a sale under such license must take place within such space or structure.
(Ordinance No. 36, Second Series, 6-25-98)

**SEC. 5.07. UNLAWFUL ACTS.**

**Subd. 1. Consumption.** It is unlawful for any person to consume, or any licensee to permit consumption of, alcoholic beverages on licensed premises more than 30 minutes after the hour when a sale thereof can legally be made.

**Subd. 2. Closing.** It is unlawful for any person, other than a licensee or his bona fide employee actually engaged in the performance of his duties, to be on premises licensed under this Chapter more than 30 minutes after the legal time for making licensed sales, unless the licensed establishment is open to the public for serving food.

**SEC. 5.08. CONDUCT ON LICENSED PREMISES**. Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order therein.

**SEC. 5.09. SALE BY EMPLOYEE**. Any sale of an alcoholic beverage in or from any premises licensed under this Chapter by any employee authorized to make such sale in or from such place is the act of the employer as well as of the person actually making the sale; and every such employer is liable to all of the penalties, except criminal penalties, provided by law for such sale, equally with the person actually making the sale.

**SEC. 5.10. LICENSE CONDITION AND UNLAWFUL ACT.**

**Subd. 1.** All premises licensed under this Chapter shall at all times be open to inspection by any police officer to determine whether or not this Chapter and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection by such officers and without a warrant for searches or seizures.

**Subd. 2.** It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police officer from making such inspection.

**SEC. 5.11. LICENSE FEES - FIXING AND REFUNDMENT.**

**Subd. 1. Fixing Fees**. Except as otherwise specifically provided, all fees for licenses provided for in this Chapter, including, but not by way of limitation, license fees, investigation and administration fees, shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may, from time-to-time, be amended by the Council by resolution. A copy of the resolution shall be kept on file in the office of the City Administrator and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may categorize and classify, provided, that such categorization and classification shall be included in the resolution authorized by this Section.

**Subd. 2. Refundment**. A pro-rata share of an annual license fee for a license to sell alcoholic beverages, either on-sale or off-sale, shall be refunded to the licensee, or to his estate, if: (1) the business ceases to operate because of destruction or damage; (2) the licensee dies; or, (3) the business ceases to be lawful for a reason other than a license revocation or suspension.

**SEC. 5.12. LICENSE FEE INCREASES, NOTICE AND HEARING.** No license fee for on-sale beer, on-sale liquor (including clubs), or on-sale wine, shall be increased except after notice and hearing thereon. Notice of the proposed increase shall be mailed at least 30 days before the hearing date to all then-current licensees and persons, if any, whose applications for such licenses are then pending before the Council.

**SEC. 5.13. FINANCIAL RESPONSIBILITY OF LICENSEES.**

**Subd. 1. Proof.** No alcoholic beverage license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility, imposed by Statute, by filing with the City:

**A**. A certificate that there is in effect an insurance policy or pool providing minimum coverages of (1) $50,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of $100,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of $10,000.00 because of injury to or destruction of property of others in any one occurrence, and (2) $50,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, $100,000.00 for loss of means of support of two or more persons in any one occurrence; an annual aggregate of $300,000.00 may be included in the insurance coverage; or,

**B.** A bond of a surety company with minimum coverages as provided in Subparagraph A of this Subdivision; or,

**C.** A certificate of the State Treasurer that the licensee has deposited with him $100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of $100,000.00. (7-1-90)

**Subd. 2. Exception.** This Section does not apply to on-sale beer licensees with sales of beer of less than $25,000.00 for the preceding year, nor to off-sale beer licensees with sales of beer of less than $50,000.00 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than $25,000.00 for the preceding year. An affidavit of the licensee shall be required to establish the exemption under this Subdivision.
(Ordinance No. 36, Second Series, 6-25-98)

**Subd. 3. Documents Submitted to Commissioner.** All proofs of financial responsibility and exemption affidavits filed with the City under this Section shall be submitted by the City to the Commissioner.

**SEC. 5.14. INSURANCE CERTIFICATE REQUIREMENTS**. Whenever an insurance certificate is required by this Chapter the applicant shall file with the City Administrator a certificate of insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be cancelled or terminated without 30 days' written notice served upon the City Administrator. Cancellation or termination of such coverage shall be grounds for license revocation.

**SEC. 5.15. MINORS AS DEFINED IN SECTION 5.01 - UNLAWFUL ACTS**.

**Subd. 1. Consumption**. It is unlawful for any:

**A.** Licensee to permit any minor to consume alcoholic beverages on licensed premises.

**B.** Minor to consume alcoholic beverages except in the household of the minor's parent or guardian, and then only with the consent of such parent or guardian.

**Subd. 2. Purchasing**. It is unlawful for any:

**A**. Person to sell, barter, furnish, or give alcoholic beverages to a minor unless such person is the parent or guardian of the minor, and then only for consumption in the household of such parent or guardian.

**B**. Minor to purchase or attempt to purchase any alcoholic beverage.

**C.** Person to induce a minor to purchase or procure any alcoholic beverage.

**Subd. 3. Possession**. It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his parent or guardian.

**Subd. 4. Entering Licensed Premises**. It is unlawful for any minor, as defined in this Chapter, to enter licensed premises or the municipal liquor store for the purpose of purchasing or consuming any alcoholic beverage. It is not unlawful for any person who has attained the age of 18 years to enter licensed premises for the following purposes: (1) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute; (2) to consume meals; and (3) to attend social functions that are held in a portion of the establishment where liquor is not sold. It is unlawful for a licensee to permit a person under the age of 18 years to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

**Subd. 5. Misrepresentation of Age**. It is unlawful for a minor to misrepresent his age for the purpose of purchasing an alcoholic beverage. (7-1-90)

**Subd. 6. Proof of Age**. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license or identification card issued by Minnesota, another State, or a province of Canada, and including the photograph and date of birth of the licensed person; or by a valid military identification card issued by the United States Department of Defense; or, in the case of a foreign national, from a nation other than Canada, by a valid passport. (Ordinance No. 36, Second Series, 6-25-98)

(12-15-09)

**SEC. 5.16. GAMBLING PROHIBITED**. It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation on licensed premises of dice or any other gambling device, or permit raffles to be conducted, except such as are authorized by Statute or the City Code.

**SEC. 5.17. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS**. It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any (1) street, (2) public property, or (3) private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the Council. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers. (7-1-90)

**SEC. 5.18. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS**. It is unlawful for any person to introduce upon, or have in his possession upon, or in, any public elementary or secondary school ground, or any public elementary or secondary school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell alcoholic beverages, and for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses. (Ordinance No. 10, Second Series, 7-3-92)

**SEC. 5.19. ALCOHOLIC BEVERAGES - CERTAIN UNLAWFUL ACTS.** It is unlawful for any:

**Subd. 1.** Person to knowingly induce another to make an illegal sale or purchase of an alcoholic beverage.

**Subd. 2.** Licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated.

**Subd. 3.** Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.

**Subd. 4.** Licensee to sell an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

**Subd. 5.** Licensee to allow consumption of an alcoholic beverage on licensed premises on any day, or during any hour, when such consumption is not permitted by law.

**Subd. 6.** Person to purchase an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law. (7-1-90)

**SEC. 5.20. BREW-ON-PREMISES STORE, UNLAWFUL ACTS.** It is unlawful:

**Subd. 1.** To sell or otherwise provide alcoholic beverages to customers of a brew-on-premises store unless the owner of the brew-on-premises store holds an appropriate liquor license.

**Subd. 2.** For a customer to re-sell malt liquor brewed in a brew-on-premises store or use it for any purpose other than personal use.

**Subd. 3.** For a minor to be a customer of a brew-on-premises store. (Ordinance No. 36, Second Series, 6-25-98)

**(Sections 5.21 through 5.29, inclusive, reserved for future expansion.)**

**SEC. 5.30. BEER LICENSE REQUIRED.** It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of beer, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the City. Annual on-sale beer licenses may be issued only to restaurants, hotels, bowling centers, clubs, and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks.

**SEC. 5.31. TEMPORARY BEER LICENSE.**

**Subd. 1. Applicant.** A club or charitable, religious, or non-profit organization shall qualify for a temporary on-sale beer license.

**Subd. 2. Conditions.**

**A.** An application for a temporary license shall state the exact dates and place of proposed temporary sale.

**B**. No applicant shall qualify for a temporary license for more than a total of seven days in any calendar year.

**C.** The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall file with the City, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of $50,000.00 for injury to any one person and $100,000.00 for injury to more than one person, and $10,000.00 for property damage, naming the City as an insured during the license period. Such license shall be issued only on the condition that the applicant will not sell in excess of $10,000.00 (retail value) worth of beer in any calendar year, and thereupon shall be exempt from proof of financial responsibility as provided for herein. (7-1-90)

(12-15-09)

**SEC. 5.32. HOURS AND DAYS OF BEER SALES.** No sale of beer shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on the days of Tuesday through Saturday, nor between the hours of 1:00 o'clock A.M. and 12:00 o'clock noon on Sunday, nor between the hours of 12:00 o'clock midnight on Sunday and 8:00 o'clock A.M. on Monday. (Ordinance No. 2, Second Series, 8-3-90)

**(Sections 5.33 through 5.39, inclusive, reserved for future expansion.)**

**SEC. 5.40. LIQUOR LICENSE REQUIRED.**

**Subd. 1. Unlicensed Sales Prohibited.** It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of liquor, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply (1) to such potable liquors as are intended for therapeutic purposes and not as a beverage, (2) to industrial alcohol and its compounds not prepared or used for beverage purposes, (3) to wine in the possession of a person duly licensed under this Chapter as an on-sale wine licensee, (4) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, or (5) to sales by wholesalers to persons holding liquor licenses from the City. (Ordinance No. 10, Second Series, 7-30-92; Amended, Ord. No. 82, 2/21/06)

**Subd. 2. Number of On-Sale and Off-Sale Licenses Established.** The City may issue on-sale liquor licenses to liquor stores and to hotels, restaurants, and clubs, with the permission of the Commissioner, and provided that liquor sales will be made only to members and bona fide guests. The City may issue two on-sale liquor licenses to liquor stores and an unlimited number of licenses to hotels, restaurants and clubs. The City may issue three (3) off-sale license to a liquor store and no additional off-sale licenses to any other establishments. The City may issue a combination off-sale and on-sale liquor license to the same licensee in which case the City may only issue one additional on-sale license to a liquor store. (Added, Ord. No. 82, 02/21/06, Amended, Ord. No. 123 Second Series, 03/30/13)

**SEC. 5.40.1. TEMPORARY LIQUOR LICENSE.**

**Subd. 1. License Authorized.** Notwithstanding any provision of the City Code to the contrary, the Council may issue a license for the temporary on-sale of liquor in connection with a social event sponsored by the licensee. Such license may provide that the licensee may contract with the holder of a full-year on-sale license, issued by the City, for liquor catering services.

**Subd. 2. Applicant.** The applicant for a license under this Section must be a club or charitable, religious, or other non-profit organization in existence for at least three years, or a political committee registered under Section 10A.14 of Minnesota Statutes.

**Subd. 3. Terms and Conditions of License.**

**A**. No license is valid until approved by the Commissioner.

**B**. No license shall be issued for more than four consecutive days.

**C**. No temporary license shall issue until the City is furnished with written proof that the licensee has dram shop coverage in the amount provided for in this Chapter, and that such coverage is in force on the premises where liquor is to be served.

**D**. All licenses and licensees are subject to all provisions of statutes and the City Code relating to liquor sale and licensing except those relating to financial responsibility and insurance, and except those which by their nature are not applicable.

**E**. Licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.

**F.** No more than three four-day, four three-day or six two-day licenses in any combination not to exceed 12 days per year may be issued to any one organization or registered political committee, or for any one location within a 12-month period.

**G.** No more than one temporary license may be issued to any one organization or registered political committee or for any one location within any 30-day period. (Ordinance No. 36, Second Series, 6-25-98)

(12-15-09)

**SEC. 5.41. SUNDAY SALES.**

**Subd. 1**. **License Required**. The electorate of the City having heretofore authorized the same, a Sunday on-sale liquor license may be issued to clubs, hotels or restaurants, in conjunction with the sale of food, which have on-sale liquor licenses and which also have seating capacity for not less than 50 guests at one time. Prior to issuance of such license, the applicant shall provide the City with proof of financial responsibility for Sunday sales. (Amended, Ord. No. 105, Second Series 12-15-09)

**Subd. 2. Hours of Sale**. The hours of Sunday on-sale liquor sales shall be from 12:00 o'clock noon to 12:00 o'clock midnight on Sundays, provided that the licensee is in conformance with the Minnesota Clean Air Act.

**Subd. 3. Unlawful Acts**. It is unlawful to sell liquor on Sunday unless such sales are (1) licensed in accordance with this Section, (2) in conjunction with the sale of food, and, (3) during hours of permitted sales.

**CODIFIER'S NOTE:** Club licenses were not included in the referendum so no Sunday licenses can be issued to clubs.

**SEC. 5.42. HOURS AND DAYS OF LIQUOR SALES**. No sale of liquor shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on the days of Tuesday through Saturday, nor between 12:00 o'clock midnight on Sunday and 8:00 o'clock A.M. on Monday, nor between the hours of 8:00 o'clock P.M. on December 24 and 8:00 o'clock A.M. on December 25. (**NOTE**: This Section does not prohibit sales during hours when on-sale is permitted on Sunday as stated in the Section of this Chapter entitled "Sunday Sales".)

**SEC. 5.43. ON-SALE WINE LICENSE REQUIRED**. It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of wine on-sale, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply (1) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, (2) to sales by wholesalers to persons holding on-sale or off-sale liquor licenses from the City, (3) to sales by wholesalers to persons holding on-sale wine licenses from the City, or (4) to sales by on-sale liquor licensees on days and during hours when on-sale liquor sales are permitted. (7-1-90)

**SEC. 5.43.1. ON-SALE WINE LICENSE NOT REQUIRED FOR BED AND BREAKFAST FACILITY**. No on-sale wine license is required for a bed and breakfast facility as defined in this Chapter and registered with the Commissioner, provided such facility provides no more than two glasses per day each containing not more than four fluid ounces of wine at no additional charge to a person renting a room at the facility. Wine so furnished may be consumed on the premises of the bed and breakfast facility. (Ordinance No. 36, Second Series, 6-25-98)

**SEC. 5.44. HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.** No on-sale of wine shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on the days of Tuesday through Saturday, nor between 12:00 o'clock midnight on Sunday and 8:00 o'clock A.M. on Monday, nor between the hours of 8:00 o'clock P.M. on December 24 and 8:00 o'clock A.M. on December 25. (7-1-90)

**SEC. 5.45. BEER, LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.** (Ordinance No. 36, Second Series, 6-25-98)

**Subd. 1. Licenses in Connection With Premises of Another.** A license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this Chapter. This Subdivision does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a non-citizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this Chapter.

**Subd. 2. Employment of Minors**. No person under 18 years of age may sell or serve liquor or wine on licensed premises.

**Subd. 3. Premises Eligible.** On-sale wine licenses shall be granted only to restaurants as defined in this Chapter. Provided, however, for purposes of this Section, such restaurant shall have appropriate facilities for seating not less than 50 guests at one time. (7-1-90)

**Subd. 4. Professional Dancer License.**

**A.** It is unlawful for any beer, liquor or wine licensee to allow any professional dancer to perform without the beer, liquor or wine licensee having a premises dance license.

**B.** It is unlawful for any beer, liquor or wine licensee to employ or permit a professional dancer to perform on licensed premises who has within the preceding five years been convicted of the violation of any law, including a City ordinance.

**C.** **Exception**. This Section shall not apply to persons whose participation in a performance is restricted solely to employing either vocal or instrumental musical skills where dance movements are incidental to, and not primary to the performance. (Ordinance No. 36, Second Series, 6-25-98)

**(Sections 5.46 through 5.59, inclusive, reserved for future expansion.)**

**SEC. 5.60. MUNICIPAL DISPENSARY.** (7-1-90) (Deleted, Ord. No. 82, 2-21-06)

**(Sections 5.61 through 5.69, inclusive, reserved for future expansion.)**

**SEC. 5.70. NUDITY OR OBSCENITY PROHIBITED.**

**Subd. 1. Definitions.** As used in this Section, the following words and terms shall have the meanings stated:

**A. "Nudity"** means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

**B. "Obscene performance"** means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

**C. "Obscenities"** means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

**D. "Sado-masochistic abuse"** means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

**E. "Sexual conduct"** means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

**F. "Sexual excitement"** means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

**Subd. 2. Unlawful Act.** It is unlawful for any person issued a license provided for in this Chapter to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person. (7-1-90)

**Subd. 3. Prosecution.** Any prosecution under this Section shall include the following elements: (1) that the average person, applying contemporary community standards would find the performance, taken as a whole, appealing to the prurient interest of the audience; (2) that the performance describes or depicts, in a patently offensive way, sexual conduct included in the definition of "obscene performance"; and (3) that the performance, taken as a whole, lacks serious literary, artistic, political or scientific value. (Ordinance No. 36, Second Series, 6-25-98)

**(Sections 5.71 through 5.98, inclusive, reserved for future expansion.)**

**SEC. 5.99. VIOLATION A MISDEMEANOR.** Every person violates a Section, Subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. (7-1-90)

**SUB-ANALYSIS**

**Title**

**CHAPTER 6 OTHER BUSINESS REGULATION AND LICENSING**


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# CHAPTER 6
# OTHER BUSINESS REGULATION AND LICENSING

**SEC. 6.01. DEFINITIONS**. As used in this Chapter, the following words and terms shall have the meanings stated:

**1.** **"Applicant**" means any person making an application for a license under this Chapter.

**2.** **"Application"** means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

**3.** **"Bond"** means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

**4.** **"Business"** means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated^ by the terms and conditions of this Chapter.

**5.** **"License"** means a document issued by the City to an applicant permitting him to carry on and transact a business.

**6.** **"Licensee"** means an applicant who, pursuant to his or her application, holds a valid, current, unexpired and unrevoked license from the city for carrying on a business.

**7.** **"License fee"** means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

**8.** **"Sale", "Sell" and "Sold"** mean all forms of barter and all manner or means of furnishing merchandise to persons.

**SEC. 6.02. APPLICATIONS.** All applications shall be made as follows:

**Subd. 1.** All applications shall be made at the office of the City Administrator upon forms that have been furnished by the City for such purposes.

**Subd. 2**. Unless otherwise provided for in this Chapter, all such applications must be subscribed, sworn to, and include such information as the Council deems necessary considering the nature of the business for which license application is made.

**Subd. 3.** It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part hereof.

**Subd. 4.** The City Administrator shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he deems necessary. For such investigation the City Administrator may enlist the aid of peace officers. The Council shall not consider an application before such investigation has been completed.

**Subd. 5.** Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

**SEC. 6.03. ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.**

**Subd. 1. Granting.** The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. Failure to pay any portion of a fee when due shall be cause for revocation. No license fee shall be refundable upon revocation or voluntarily ceasing to carry on the licensed activity. All applications, including proposed license periods, must be consistent with this Chapter.

**Subd. 2. Issuing.** If an application is approved, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the Council, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of l/12th for each calendar month or part thereof remaining in the then current license year. Provided, that for licenses where the fee is less than $100.00 a minimum license fee equal to one-half of the annual license fee shall be charged.

Except as to licenses which are specifically City-wide, licenses shall be valid only at one location and on the premises therein described.

**Subd. 3. Transfer.** A license shall not be transferable.

**Subd. 4. Termination.** Licenses shall terminate only by expiration or revocation.

**Subd. 5. Refusal and Revocation.** The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to" a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing. Grounds for revocation may be, but are not limited to, any of the following: (1) that the licensee suffered or permitted illegal acts upon licensed premises; (2) that the licensee had knowledge of such illegal acts but failed to report the same to peace officers; (3) that the licensee failed or refused to cooperate fully with peace officers in investigating such alleged illegal acts; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare.

**Subd. 6. Duplicate License.** Duplicates of all original licenses may be issued by the City Administrator, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee in an amount adopted by resolution of the Council for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

Source: City Code
Effective Date: 7-1-90

**SEC. 6.04. FIXING LICENSE FEES.** The Council may charge a fee for any license which the City issues and, except as otherwise herein provided, all fees for licenses under this Chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Administrator, and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement, provided, that any such subdivision or categorization shall be included in the resolution authorized by this Section.

Source: Ordinance No. 37, Second Series
Effective Date: 6-25-98

**SEC. 6.05. CARRYING OR POSTING.** All solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity. Provided, however, that in the case of machine or other device licensing, the City may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand by any officer or citizen.

**SEC. 6.06. PENALTY FOR PROPERTY OWNER**. It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used, without a license, for any business for which a license is required by this Chapter.

**SEC. 6.07. RESPONSIBILITY OF LICENSEE.**

**Subd. 1.** The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under such license, except as to criminal liability therefor, shall be deemed the conduct of the licensee.

**Subd. 2**. All licensees, additionally, have the duty to permit at reasonable times inspection of his business and examination of his books and records by authorized officers or employees; to comply with laws, City Code provisions and regulations applicable to the licensed business, activity or property; to display the license or other insignia given him in evidence of the license in a conspicuous place on the premises, vehicle, or device to which the license relates, or if the license is not so related, to carry it on his person at all times; and all licensees are restrained from giving or lending any other person his license or license insignia.

**SEC. 6.08. CONDITIONAL LICENSES**. Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

**SEC. 6.09. RENEWAL OF LICENSES**. Applications for renewal of an existing license shall be made at least thirty (30) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

**SEC. 6.10. INSURANCE REQUIREMENTS**. Whenever insurance is required by a Section of this Chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Administrator a policy or certificate of public liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be cancelled or terminated without thirty days' written notice served upon the City Administrator. Cancellation or termination of such coverage shall be grounds for license revocation.

**SEC. 6.11. LICENSE DENIAL AND FIXING RATES - HEARING.**

**Subd. 1. Right to Deny**. The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this Chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of such business in making such determination. Provided, however, that before making such determination, the Council shall hold a public hearing thereon pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.

**Subd. 2. Rates.** Where, under specific provisions of this Chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

**Subd. 3. Hearing.** Any applicant or licensee under this Chapter who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefor. Notice of time, place and purpose of such hearing shall be given to such persons and by such means as the Council may determine in calling the hearing.

**SEC. 6.12. WORKER'S COMPENSATION.** No license to operate a business shall be issued by the City until the applicant presents acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes by providing the name of the insurance company, the policy number, and dates of coverage, or the permit to self-insure.

Source: City Code
Effective Date: 7-1-90

**SEC. 6.13. ACTION TO TERMINATE BUSINESS OPERATING IN VIOLATION OF LICENSING OR ZONING REGULATIONS.**

**Subd. 1. Violations Cause For Termination.** Any business operating in violation of licensing or zoning regulations for a particular location at the time the business was established may be closed by resolution of the Council.

**Subd. 2. Determination of Violation.** Prior to ordering the closing of a business believed to be in violation of licensing or zoning regulations, the business owner is entitled to a full hearing before the Council. The Council shall serve a written request therefor upon the business owner at least fourteen (14) days prior to any regular Council meeting. Such notice shall contain a general statement setting forth the facts of the violation and the scheduled Council meeting date during which the matter will be heard. At such hearing the business owner may present any evidence he/she deems pertinent to the determination, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements, adjourn the hearing to a more convenient time or place, but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening.

**Subd. 3. Findings.** Upon the conclusion of evidentiary presentations, the Council shall make findings that no violation exists, or adopt a resolution stating the particular findings to establish the existance of violations.

**Subd. 4. Termination of Business Operations.** Five (5) business days following written notice mailed to the business owner, the Zoning Administrator or other designated official shall cause the business to be closed, subject only to the business owner's right to remove or relocate business property.

Source: Ordinance No. 37, Second Series
Effective Date: 6-25-98

(Sections 6.14 through 6.29, inclusive, reserved for future expansion.)

**SEC. 6.30. AMUSEMENT DEVICES.**

**Subd. 1. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**A. "Game of skill"-** Any device excepting pool and billiard tables, bowling alleys and shooting lanes, but including miniatures thereof, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, which is available to be played by the public generally at a price paid either directly or indirectly for such privilege.

**B. "Coin amusement"** - Any machine which upon the insertion of a coin, token or slug, operates or may be operated and is available to the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.

**C. "Video game"** - Any electrical device which displays objects on a screen and upon insertion of a coin, token or slug may be played by the public generally for entertainment or amusement.

**D. "Amusement device"** - includes a game of skill, a coin amusement, or a video game, as defined in this Subdivision, or any combination thereof.

**E. "Distributor"** - The person who places amusement devices on premises not owned by him or under his control, which devices may be played by the public generally for a price paid either directly or indirectly.

**F. "Arcade"** - A contiguous area in which more than six (6) amusement devices are kept for use by the public generally.

**Subd. 2. License Required.** It is unlawful for any person to have upon premises owned or controlled by him (1) any amusement device, or (2) operate an arcade, without a license therefor from the City. It is unlawful for any person to be a distributor without a license therefor from the City.

**Subd. 3. Exception.** This Section shall not apply to video games of chance licensed by the State.

**Subd. 4. Unlawful Use and Devices.** It is unlawful for any person to: (1) sell or maintain a machine or device which is for gambling or contains an automatic pay-off device; (2) give any prize, award, merchandise, gift, or thing of value to any person on account of operation of such device; (3) sell or maintain, or permit to be operated in his place of business, any amusement device equipped with an automatic pay-off device; (4) equip any amusement device with an automatic pay-off device; (5) permit persons under the age of eighteen years to play or operate any game of skill; or, (6) permit the playing of coin amusement machines between the hours of 1:00 o'clock A.M. and 6:00 o'clock A.M. of any day.

**SEC. 6.31. DANCES.**

**Subd. 1. Definitions.** As used in this Section, the following words and terms shall have the meanings stated:

**A.** **"Public dance"** means any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, which fee may be in the form of a club membership, or payment of money, directly or indirectly.

**B.** **"Public dancing place"** means any room, place, or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing.

**C.** Provided, that nothing in this Section shall apply to dances held in the public school system.

**Subd. 2. License Required.** It is unlawful for any person to operate a public dancing place, or hold a public dance, without a license therefor from the City.

**Subd. 3. Application and License.**

**A.** A verified application for a dance license shall be filed with the City and shall specify the names and addresses of the person, persons, committee or organization that is to hold the dance, time and place thereof, and the area of the dance floor.

**B.** All applications shall be accompanied by affidavits of two residents showing that the applicant is of good character and reputation in the community in which he lives, that he has not been convicted of a felony, gross misdemeanor, or violation of any public dance laws within the past five years. No license shall be issued to any person who has been so convicted.

**C.** No license shall be granted by the Council for any place having so-called "private apartments" or "private rooms" furnished or used for any purposes other than a legitimate business purpose which adjoins such dancing place, or which may be reached by stairs, elevators, or passageway leading from such dancing place. Nor shall a license be granted for any place which is not properly ventilated and equipped with necessary toilets, washrooms or lighting facilities.

**D.** Applications may be referred by the Council to a peace officer for investigation and report prior to being acted upon by the Council.

**E.** The Council shall act upon all dance license applications at a regular or special meeting thereof, whether or not it is included in the call or agenda of the meeting.

**F.** It shall be the responsibility of the licensee to employ at least one officer of the law employed by the Goodhue County Sheriff's Department to be present at every public dance during the entire time said dance is being held.

**G.** The dance license shall be posted in the public dancing place and shall state the name of the licensee, the amount paid therefor, and the time and place licensed. The license shall also state that the licensee is responsible for the manner of conducting the dance.

**H.** No license shall be issued to any applicant under the age of eighteen (18) years.

**Subd. 4. Dance Regulations.**

**A. Obscenity and Immorality Prohibited**. It is unlawful for any person to dance, or for a licensee to permit or suffer any person to dance at any public dance in an indecent or immodest manner. It is also unlawful for any person at a public dance to speak in a rude, boisterous, obscene, or indecent manner or for any licensee to suffer or permit any person so to act or speak in any public dancing place.

**B. Certain Persons Prohibited**. No licensee shall permit any unmarried person under the age of sixteen (16) years, unless said unmarried person is accompanied by his parent or guardian, to remain in a public dancing place. Nor shall any licensee permit any intoxicated person, or other person who persists in violating the law, to be or remain in a public dancing place.

**C. Hours of Dancing**. No public dance shall be held on Sunday between the hours of 1:00 o'clock A.M. and 12:00 o'clock noon. No public dance shall be held on any day between the hours of 1:00 o'clock A.M. and 6:00 o'clock A.M.

**SEC. 6.32. TOBACCO.**

**Subd. 1. Definition.** As used in this Section, the term "tobacco" means and includes tobacco in any form, including but not limited to, cigarettes, cigars, bagged, canned or packaged product, or any other substance intended for use with electronic cigarettes or similar devices regardless of whether containing tobacco leaf, including, but not limited to, juices or oils, or other kinds of forms of tobacco or other substance prepared in a manner to be suitable for chewing, sniffing, vaping, or smoking in a pipe or rolling paper.

**Subd. 2. License Required.** It is unlawful for any person, directly or indirectly, to keep for retail sale, sell or otherwise dispose of any tobacco in any manner without first obtaining a license from the City. An application for a license to sell tobacco shall be made on a form provided by the City, and shall include the full name of the applicant, the contact information for the proposed license holder, and the business location for which the license is sought, along with the required application fee. Licenses shall be for a term of one (1) year.

**Subd. 3. Restrictions.**

**A.** Separate licenses shall be issued for the sale of tobacco at each fixed place of business, and no license shall be issued for a movable place of business.

**B.** It is unlawful for any person to sell or give away any tobacco in any form to any person under the age of eighteen (18) years.

**C.** The lighting, inhaling, exhaling or combination thereof of tobacco in a tobacco products shop as defined in Minnesota Statutes, Section 144.4167, Subd. 4, is hereby prohibited.

**Subd. 4. Penalty/Civil Enforcement**. Anyone who violates this section shall be guilty of a misdemeanor. In addition, the City may impose civil penalties, license suspension, or revocation to the full extent permitted by applicable law. Upon the occurrence of a suspected violation, the City's public safety department shall inform the city clerk of the suspected violation and the license holder shall be given a written notice of violation. Prior to the imposition of monetary penalties or other remedy, the license holder shall be afforded the right to a hearing before the city council. Imposition of a civil penalty, or license suspension or revocation, or combination thereof under this section does not preclude criminal prosecution.

(Section 6.32 Amended 4-21-15, Ord. 129)

**SEC. 6.33. SOLICITORS.**

**Subd. 1. Purpose.** This Section is not intended to in any way hinder, delay or interfere with legitimate business or organizational activities. The Council finds, however, that solicitors have used public streets and their direct contact with residents of the City for the illegitimate solicitation practices of harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This Section is intended to ferret out and control: (1) businesses and organizations using solicitation as a means of concealing unlawful activities; and, (2) businesses and organizations which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and, (3) individual natural persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices. The Council further finds that a large number of the residents of the City are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.

**Subd. 2. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**A.** **"Solicitor"** means any person making the solicitation, including such common terms as "peddler", "transient merchant" and canvasser".

**B.** **"Solicitee**" means the person solicited.

**C.** **"Goods"** means any tangible thing of value including money if the selling price exceeds the face value thereof. The term includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable therefrom.

**D.** **"Services"** means work, labor, or services of any kind.

**E.** **"Established place**" means real estate in the City owned, leased on a month-to-month or term-certain longer than thirty (30) days. The term includes a booth, compartment, or area leased or assigned during and for the length of an event or occasion.

**F.** **"Business solicitation"** means an attempt by a solicitor, engaging in transactions of the same kind, to sell or distribute for a consideration any goods or services primarily for personal, family, or household purposes, when either the solicitor or person acting for him contacts the solicitee by telephone or in person, other than at the established place of business of solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he represents, and the identity or kinds of goods, services or things of value offered; or, (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor; or, (3) an attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper; or, (4) an attempted solicitation for the sale of products of a farm or garden occupied or cultivated by the solicitor, when facts of such occupancy or cultivation are proven by the solicitor.

**G.** **"Contribution solicitation"** means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him contacts the solicitee by telephone or in person other than at the established place of meeting, business, service, or activity of the organization represented by the solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he represents, and the identity of the services performed or offered by the organization, or, (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor or the organization represented by him.

**Subd. 3. Prohibited Solicitation Practices.**

**A.** It is unlawful for any solicitor to engage in solicitation for any unlawful business or organizational purpose or activity.

**B.** It is unlawful for any solicitor to practice harassment, nuisance, theft, deceit, or menacing, troublesome or otherwise unlawful activities during the course of solicitation.

**C.** It is unlawful for any solicitor to enter, or attempt to gain entrance, to residential premises displaying at such entrance a sign at least 3-3/4 inches long and 3-3/4 inches high with the words "Peddlers and Solicitors Prohibited" or "Solicitors Prohibited" in type not smaller than 48 point.

**D.** It is unlawful for any solicitor to refuse to leave business premises when requested by the owner, lessee, or person in charge thereof.

**E.** It is unlawful for any person to engage in contribution solicitation without completion of licensing or registration as herein provided.

**F.** It is unlawful for any person to engage in business solicitation without a license as herein provided.

Source: City Code Effective Date: 7-1-90

**G.** It is unlawful for any solicitor except for an authorized manufacturer's representative to offer for sale any of the following items:

**1.** Infant formula or other food intended primarily for consumption by a child under the age of two years;

**2.** Over-the-counter drugs, medical devices and cosmetics.

Source: Ordinance No. 37, Second Series
Effective Date: 6-25-98

**Subd. 4. Application.** Applications for licensing or registration shall contain the name and address of the solicitor, the name and address of the business or organization for which solicitations are sought and such other information as may reasonably be required by the Council as a condition to registration or licensing or to permit investigation into the applicant's background and past solicitation practices. No application for a business solicitor's license shall be complete unless it is accompanied by a valid and current license issued by the County in which such solicitor proposes to engage in solicitation.

**Subd. 5. Investigation, Approval or Disapproval.**

**A**. All applications for licensing or registration shall be immediately referred to a peace officer, and by him or other person acting in his stead, investigated as to the truth thereof. The peace officer shall have five (5) business days within which to investigate and make a recommendation thereon.

**B**. If he finds no past history of the applicant indicating violations similar to those declared unlawful in this Section he shall recommend issuing a license or approving registration, as the case may be, and the City Administrator shall forthwith advise the applicant. The City Administrator shall issue a license, upon payment of the fee therefor, to the approved applicant for business solicitation, and shall approve the completion of registration by the applicant for a contribution solicitor.

**C.** If the peace officer finds a past history of the applicant indicating violations similar to those declared unlawful in this Section, he shall recommend denial of the license or registration. In all matters of recommended denial the applicant shall be forthwith advised thereof, and the application shall be referred to the Council and considered by it at its next regular or special meeting occurring more than ten (10) days thereafter. The applicant shall be afforded an opportunity to be heard at such meeting.

**Subd. 6. Duration of Contribution Solicitation Registration.** Registration of contribution solicitation shall expire sixty (60) days after registration is approved.

**Subd. 7. Exclusions.** The City may exclude certain classes of solicitor events from compliance with licensing or registration provisions of this Section. Provided, however, that such exclusion shall not extend to the prohibited solicitation practices set forth in Subdivision 3, Subparagraphs A through D, inclusive, of this Section.

**SEC. 6.34. SOLID WASTE COLLECTION HAULERS. (Repealed and replaced, Ord. No. 119, Second Series, 01-23-2013)**

**Subd. 1. Purpose.** The purpose of this Section is to regulate the disposal and hauling of solid waste as authorized by Minnesota Statutes, section 412.221, subd. 22(a)(3), and provide for the licensing of solid waste haulers as required by Minnesota Statutes, Section 115A.93.

**Subd. 2. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**A. "Solid Waste"** means garbage, rubbish, refuse, sludge from water treatment facilities or air contaminant treatment facilities, and discarded waste materials and sludges, in solid, semi-solid, liquid or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities. The term does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage or other common pollutants in water resoucrces, such as silt, dissolved or suspended solids in industrial waste water effluent or discharges subject to permits under Section 402 of the Federal Water Pollution Act, as amended.

**B**. **"Garbage"** means only organic waste resulting from the preparation of food and decayed and spoiled food from any source.

**C**. **"Rubbish"** means inorganic waste materials such as tin cans, glass, paper, cardboard, ashes, sweepings, yard clippings bagged leaves not exceeding sixty (60) pounds per bag, brush not exceeding four (4) feet in length, securely bundled and no bulkier than one man can handle, and old Christmas trees.

**D. "Refuse"** includes both garbage and rubbish.

**E. "Recyclable Materials**" means newspaper print, glass, aluminum and bi-metal cans, plastic, cardboard and other materials as mutually agreed upon the City and the licensee.

**F. "License"** means an annual approval issued by the City authorizing the collection of solid waste for hire in the City during the licensed year, and establishing such conditions on solid waste collection activities as may further the public health, safety and welfare.

**Subd. 3. License Required.** It is unlawful for any person to haul solid waste for hire without a license therefore from the City. The license shall be established in the City's annual rate schedule.

**Subd. 4. Number of Licenses.** The Council may license one or more persons to provide solid waste collection services under this Section; provided, however, that the Council may, in the exercise of its police power, limit the number of licensees to provide adequate service to the residents, minimize the damage to the streets and alleys, and otherwise further the public health, safety and welfare

**Subd. 5 Collections.** The licensee shall make weekly collections throughout the business district and residential areas, and make service available to all inhabitants who are required to use collection services pursuant to this Section. The City may, in consultation with licensees, establish a schedule for collections.

**Subd. 6. Equipment.** The licensee shall use proper and suitable equipment for hauling, and transporting refuse hereunder, which shall consist of leakproof, enclosed collection vehicles. Each license applicant shall provide proof that its collection vehicles have passed the required safety inspections administered by the Department of Transportation of the State of Minnesota, shall maintain such vehicles in accordance with applicable safety requirements at all times during the term of the license.

**Subd. 7. Dumping.** The licensee shall dispose of all collected solid waste at solid waste disposal facilities duly licensed and authorized by the State of Minnesota, Goodhue or Olmsted County, or other applicable Minnesota agency.

**Subd. 8. Insurance and Bond.** Each licensee shall provide liability insurance on all vehicles in at least the sum of $300,000.00 for the injury of one person, $500,000 for the injury of two or more persons in the same accident, and at least $100,000/300,000 for property damages. The City shall be named as an additional insured. The policy shall require at least 30 days prior written notice of cancellation to the City. Each licensee shall submit a certificate of insurance evidencing the required coverages within ten days of the City's issuance of a license. In addition, each licensee shall submit to the City a surety bond in the sum of $1,000.00 within ten days of the City's issuance of the licens. Such bond shall be conditioned upon strict compliance with all provisions and requirements of this Section, and all applicable solid waste hauling and disposal laws, rules and regulations.

**Subd. 9. License Application.** Each license applicant must submit an application to the City including the following information:

(a) the name and address of the application;

(b) the number of vehicles proposed to be used;

(c) the applicant's current rates available to customers in the City; and

(d) the applicant's proposed customer rates for the upcoming license year.

**Subd. 10. Rates and Charges.** Each licensee shall establish solid waste collection rates and charges that increase with the volume or weight of the waste collected and rates or charges not based on volume or weight of the waste collected are prohibited. The licensee shall not charge any user of his solid waste collection service more than the charges submitted to the City. A licensee shall notify the City in writing of any change in rates no less than 14 days prior to the effective date of such change.

**Subd. 11. Licensee to Comply.** The licensee shall comply with any local, State or Federal rules, regulations or statutes governing the conduct of persons engaged in the business of solid waste and refuse collection and hauling.

**Subd. 12. Recyclable Material Pickup.** Each licensee shall provide to its customers a service for the collection of recyclable materials regularly each month, not more frequently than every other week except during holidays or in other unusual scheduling circumstances, at site where the licensee normally picks up the customer's other solid waste, and on such schedule as may be established by the City.

**SEC. 6.35. PAWNBROKERS.**

**Subd. 1. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**1.** **"Pawnbroker"** means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

**2.** **"Pawnshop"** means the location at which or premises in which a pawnbroker regularly conducts business.

**3.** **"Pawn Transaction"** means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

**4.** **"Pledged Goods"** means tangible personal property other than a chose in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

**Subd. 2. License Required.**

**A.** It is unlawful for any person to engage in the business as a pawnbroker unless the person has a valid license authorizing engagement in the business. Any pawn transaction made without benefit of a license is void.

**B.** A separate license is required for each place of business. The City may issue more than one license to a person if that person complies with this Section for each license.

**C.** No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any pledger.

**D.** The Chief of Police shall be notified by the City of any licensee whose license has expired or been surrendered, suspended, or revoked as provided by this Section.

**Subd. 3. Persons Disqualified.** No license under this Section may be issued or renewed to a person who (a) is a minor; (b) has been convicted of any crime related to the occupation of pawnbroker; or (c) is not of good moral character or repute.

**Subd. 4. Unemployment Clearance Required.** No license shall be granted, transferred, or renewed and shall be revoked if the Commissioner notifies the City that the licensee owes the State delinquent unemployment insurance contributions, reimbursements, or benefit overpayments.

**Subd. 5. Change in Ownership.** Any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license and the new owner must satisfy all current eligibility requirements.

**Subd. 6. Pawn Tickets.**

**A. Entries of Pawn Tickets.** At the time of making the pawn or purchase transaction, the pawnbroker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the City:

**1**. A complete and accurate description of the property, including model and serial number if indicated on the property;

**2**. The full name, residence address, residence telephone number, and date of birth of the pledger or seller;

**3.** The date and time of pawn or purchase transaction;

**4**. The identification number and State of issue from one of the following forms of identification of the seller or pledger: current valid Minnesota driver's license; current valid Minnesota identification card; or current valid photo identification card issued by another State or Province of Canada;

**5**. Description of the pledger including approximate height, sex, and race;

**6**. Amount advanced or paid;

**7.** The maturity date of the pawn transaction and the amount due; and

**8.** The monthly and annual interest rates, including all pawn fees and charges.

**B. Printed Pawn Ticket.** The following shall be printed on all pawn tickets:

**1.** The statement that "Any personal property pledged to a pawnbroker within this State is subject to sale or disposal when there has been no payment made on the account for a period of not less than 60 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledger to redeem pledged goods.";

**2.** The statement that "The pledger of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledger has the right to sell or pawn the item.";

**3**. The statement that "This item is redeemable only by the pledger to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record; and

**4**. A blank line for the pledger's signature.

**Subd. 7. Records; Retention.**

**A**. The pledger or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket.

**B**. The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three years. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall upon request provide to the appropriate law enforcement agency a complete record of pawn items.

**Subd. 8. Effect of Non-Redemption.**

**A.** A pledger shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn transaction, renewal, or extension shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.

**B**. The pawnbroker's right, title, and interest in the pledged goods under this Subdivision is qualified only by the pledger's right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up the date of redemption.

**C**. A pawn transaction that involves holding only the title to property is subject to Minnesota Statutes, Chapter 168A or 336.

**Subd. 9. Permitted Charges.**

**A**. A pawnbroker may contract for and receive a pawnshop charge not to exceed 3% per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed $20.00 if the property is not in the possession of the pawnbroker.

**B**. The pawnshop charge allowed under this Subdivision shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledger.

**C**. Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this Section.

**D.** Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this Section, shall be uncollectible and the pawn transaction shall be void.

**E**. A schedule of charges permitted by this Section shall be posted on the pawnshop premises in a place clearly visible to the general public.

**Subd. 10. Records; Prohibitions.** A pawnbroker and any clerk, agent, or employee of a pawnbroker shall not:

**A.** Make any false entry in the records of pawn transactions;

**B.** Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transactions;

**C.** Refuse to allow the appropriate law enforcement agency, the Attorney General, or any other duly authorized State or Federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties;

**D.** Fail to maintain a record of each pawn transaction for three years;

**E.** Accept a pledge or purchase property from a person under the age of 18 years;

**F.** Make any agreement requiring the personal liability of a pledger or seller, or waiving any provision of this Section, or providing for a maturity date less than one month after the date of the pawn transaction;

**G.** Fail to return pledged goods to a pledger or seller, or provide compensation as set forth in State Statutes, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to State Statutes, or the pledged goods have been taken into custody by a Court or a law enforcement officer or agency;

**H.** Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction;

**I.** Sell or otherwise charge for insurance in connection with a pawn transaction; or

**J.** Remove pledged goods from the pawnshop premises or other storage place approved by the City at any time before unredeemed, pledged goods are sold pursuant to Statute.

**Subd. 11. Redemption; Risk of Loss.** Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledger, in cash or replacement goods acceptable to the pledger, for the fair market value of the lost of damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

**Subd. 12. Motor Vehicle Title Pawn Transactions; Special Provisions.**

**A.** In addition to the other requirements of this Section, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:

**1.** Be licensed as a used motor vehicle dealer under Minnesota Statutes, Chapter 168, and post such license on the pawnshop premises;

**2.** Verify that there are no liens or encumbrances against the motor vehicle with the Department of Public Safety; and

**3.** Verify that the pledger has automobile insurance on the motor vehicle as required by law.

**B.** A pawnbroker may not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.

**Subd. 13. Transition.** Pawnbrokers that are already in business on the effective date of this Section, must apply for a license and pay the required fee within six months.

**Subd. 14. Violation.** A violation of this Section is a misdemeanor.

**SEC. 6.36. FIREWORKS DISPLAY OPERATORS.**

**Subd. 1.** It is unlawful for any fireworks display operator to fail to deposit a copy of his/her State certification with the City Administrator.

**Subd. 2.** Any organization providing a fireworks display shall submit to the City Administrator proof of insurance coverage of at least $750,000.00 for bodily injury for any one person in any one occurrence, in the amount of $750,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of $750,000.00 because of destruction of property of others in any one occurrence.

**SEC. 6.37. PROFESSIONAL DANCER LICENSE.**

**Subd. 1. Definition.** As used in this Section, the term "professional dancer" means any person performing any dance, act or other performance on the premises of a beer, liquor or wine licensee under this Chapter, whether such person is an employee of the licensee or under contract to perform.

**Subd. 2. License Required.** It is unlawful for any professional dancer to perform without a license therefor from the City.

**Subd. 3. Professional Dancer License Restrictions.** It is unlawful for any professional dancer to perform in an obscene manner or in a manner otherwise prohibited by the City Code, or any other law.

**Subd. 4. Application.** All applications shall be made at the office of the City Clerk-Treasurer upon forms prescribed by the City Clerk-Treasurer. No professional dancer shall be issued a license under this Section until the application therefor has been referred to the Chief of Police and the Chief of Police has had a reasonable opportunity to investigate the applicant and the statements contained in the application.

**Subd. 5. Refusal, Revocation or Suspension.** The Council may refuse, revoke or suspend any license provided for in this Chapter upon the finding of a violation of this Section. No professional dance license shall be issued to a person of questionable moral character or who has, within the preceding five (5) years, been convicted of any violation of any law, including a City ordinance. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council.

**Subd. 6. Prosecution for Obscene Dancing.** Any prosecution for obscene dancing under this Section shall include the following elements: (1) that the average person, applying contemporary community standards, would find the performance, taken as a whole, appealing to the prurient interest of the audience; (2) that the performance describes or depicts, in a patently offensive way, sexual conduct included in the definition of "obscene performance"; and (3) that the performance, taken as a whole, lacks serious literary, artistic, political or scientific value.

Source: Ordinance No. 37, Second Series
Effective Date: 6-25-98

(Sections 6.38 through 6.98, inclusive, reserved for future expansion.)

**SEC. 6.99. VIOLATION A MISDEMEANOR**. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code
Effective Date: 7-1-90

**SUB-ANALYSIS**

**Title**

**CHAPTER 7 STREETS AND SIDEWALKS GENERALLY**

(THIS CHAPTER CONTAINS PROVISIONS AS TO DEFINITIONS, APPLICATION AND SCOPE RELATING TO CHAPTERS 8 AND 9 AS WELL AS THIS CHAPTER)


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(3-18-08)

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(3-18-08)

## CHAPTER 7 STREETS AND SIDEWALKS GENERALLY

**(THIS CHAPTER CONTAINS PROVISIONS AS TO DEFINITIONS, APPLICATION AND SCOPE RELATING TO CHAPTERS 8 AND 9 AS WELL AS THIS CHAPTER)**

**SEC. 7.01. DEFINITIONS.** Except as otherwise defined in the City Code, or where the context clearly indicates a contrary intent, the words and terms defined in Minnesota Statutes, Chapter 169, shall be applicable to City Code, Chapters 7, 8 and 9.

**SEC. 7.02. APPLICATION.** The provisions of City Code, Chapters 7, 8 and 9, are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

**SEC. 7.03. SCOPE AND ORDERS OF OFFICERS**.

**Subd. 1. Scope.** The provisions of Chapters 7, 8 and 9 relate exclusively to the streets and alleys in the City, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets and alleys.

**Subd. 2. Orders of an Officer.** It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any police or peace officer invested by law with authority to direct, control or regulate traffic.

**SEC. 7.04. TRAFFIC AND PARKING CONTROL.**

**Subd. 1. Council Action.** No device, sign or signal shall be erected or maintained for traffic or parking control unless the Council shall first have approved and directed the same, except as otherwise provided in this Section; provided, that when traffic and parking control is marked or sign-posted, such marking or sign-posting shall attest to Council action thereon.

**Subd. 2. Temporary Restrictions.** The City may temporarily restrict traffic or parking for any private, public or experimental purpose.

**Subd. 3. Traffic Restrictions and Prohibitions**. It is a misdemeanor for any person to drive a vehicle contrary to lane restrictions or prohibitions painted on any street, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.

**Subd. 4. Parking Restrictions and Prohibitions.** It is unlawful for any person to park a vehicle, except an emergency vehicle, contrary to lane restrictions or prohibitions painted on any curb, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.

**Subd. 5. Damaging or Moving Markings.** It is a misdemeanor for any person to deface, mar, damage, move, remove, or in any way tamper with any structure, work, material, equipment, tools, sign, signal, barricade, fence, painting or appurtenance in any street unless such person has written permission from the City or is an agent, employee or contractor for the City, or other authority having jurisdiction over a particular street, and acting within the authority or scope of a contract with the City or such other authority.

**SEC. 7.05. ICE AND SNOW ON PUBLIC SIDEWALKS.**

**Subd. 1. Ice and Snow a Nuisance.** All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within 24 hours after such snow or ice has ceased to be deposited.

**Subd. 2. City to Remove Snow and Ice.** The City may cause to be removed from all public sidewalks, beginning 24 hours after snow or ice has ceased to fall, all snow or ice which may be discovered thereon, and it shall keep a record of the cost of such removal and the private property adjacent to which such accumulations were found and removed.

**Subd. 3. Cost of Removal to be Assessed.** The City Administrator shall, upon direction of the Council, and on receipt of the information provided for in the preceding Subdivision, extend the cost of such removal of snow or ice as a special assessment against the lots or parcel of ground abutting on walks which were cleared, and such special assessments shall at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.

**Subd. 4. Civil Suit for Cost of Removal.** The City Administrator shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in Subdivision 2 hereof, the cost of such clearing and the cost and disbursement of a civil action stabilize.

**Subd. 5. City Administrator to Report Sidewalks Cleared.** The City Administrator shall present to the Council at its first meeting after snow or ice has been cleared from the sidewalks as provided in Subdivision 2 hereof the report of the City thereon, and shall request the Council to determine by resolution the manner of collection to be used as provided in Subdivisions 3 or 4 of this Section.

(3-18-08)

## SEC. 7.06. CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALK, CURB AND GUTTER.

**Subd. 1. Methods of Procedure.**

**A.** Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this Section if advance payment is made stabilize or arrangements for payment considered adequate by the City are completed in advance.

**B.** With or without petition by the methods set forth in the Local Improvement Code of Minnesota Statutes, presently beginning with Section 429.011, as the same may from time to time be amended.

**Subd. 2. Permit Required.** It is a misdemeanor to construct or reconstruct a sidewalk, curb and gutter, driveway, or roadway surfacing in any street or other public property in the City without a permit in writing from the City Administrator. Application for such permit shall be made on forms approved and provided by the City and shall sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the same, provided, that no permit shall be required for any such improvement ordered installed by the Council. All applications shall be referred by the City Administrator to the Public Works Superintendent and no permit shall be issued until approval has been received from the Public Works Superintendent. All such applications shall contain an agreement by the applicant to be bound by this Chapter and plans and specifications consistent with the provisions of this Chapter and good engineering practices shall also accompany the application. A permit from the City shall not relieve the holder from damages to the person or property of another caused by such work.

**Subd. 3. Specifications and Standards.** All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with specifications and standards on file in the office of the City Administrator and open to inspection and copying there. Such specifications and standards may be amended from time to time by the City, but shall be uniformly enforced.

(3-18-08)

**Subd. 4. Inspection.** The Public Works Superintendent shall inspect such improvements as deemed necessary or advisable. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Public Works Superintendent if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the City to inspect or supervise such work.

**SEC. 7.07. OBSTRUCTIONS IN STREETS.**

**Subd. 1. Obstructions.** It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any street without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

**Subd. 2. Fires.** It is a misdemeanor for any person to build or maintain a fire upon a street.

**Subd. 3. Dumping in Streets.** It is a misdemeanor for any person to throw or deposit in any street any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemical thereon. It is a violation of this Section to haul any such material, inadequately enclosed or covered, thereby permitting the same to fall upon streets. It is also a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on any street without first having obtained a written permit from the Council.

**Subd. 4. Signs and Other Structures.** It is a misdemeanor for any person to place or maintain a permanent sign, advertisement, or other structure in any street without first having obtained a written permit from the Council. In a district zoned for commercial or industrial enterprises special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning or construction provisions of the City Code. A sign in place for more than ten days shall be considered a permanent sign.

(3-18-08)

**Subd. 5. Placing Snow or Ice in a Roadway or on a Sidewalk.**

**A.** It is a misdemeanor for any person, not acting under a specific contract with the City or without special permission from the City Administrator, to remove snow or ice from private property and place the same in any roadway or on a sidewalk.

**B.** Where permission is granted by the City Administrator the person to whom such permission is granted shall be initially responsible for payment of all direct or indirect costs of removing the snow or ice from the street or sidewalk. If not paid, collection shall be by civil action or assessment against the benefited property as any other special assessment.

**Subd. 6. Continuing Violation.** Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

**Subd. 7. Condition.** Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

**SEC. 7.08 MANAGEMENT OF PUBLIC RIGHT-OF-WAY.** In accordance with Minnesota Statutes, section 237.163 subdivision 2(b), the City hereby elects to manage right-of-ways within its jurisdiction. (Repealed and Replaced, Ord. 117, Second Series, 08/01/2012)

**Subd. 1. Definitions.** The definitions in Minnesota Rules 7819.0100, subparts 1 through 23 are hereby adopted by reference.

**Subd. 2. Permit Required.**

A. No person may obstruct or perform work in any public right-of-way without first having obtained a permit from the City.

1. A person seeking to obstruct or perform work in the improved and traveled portion of any right-of-way, or seeking to install new facilities in any portion of the right-of-way, shall obtain a permit specifying the location of the affected right-of-way, describing the work to-be performed or facilities to be installed, and the duration of the work requiring a permit.

2. A person seeking to perform periodic maintenance or repair work on facilities located in a right-of-way but outside the improved and traveled portion shall obtain an annual maintenance permit requiring notice to the public works director prior to initiation of any maintenance or repair work.

B. No person may work in a right-of-way beyond the date specified in the applicable permit without applying for a permit extension. The City may impose a reasonable delay penalty for unreasonable delays in completion of work in the right-of-way. The City council shall establish the amount of the delay penalty from time to time by resolution. No delay penalty may be imposed if the delay is due to circumstances beyond the permittee's control.

C. Permits issued under this section shall be available for inspection at all times at the indicated work site.

**Subd. 3. Applications.** A permit application shall contain the following:

A. A completed application form including plans or drawings of the project;

B. The applicant's Gopher One-Call registration certificate number, address, e-mail address, and telephone number.

C. A certificate of self-insurance or certificate of insurance naming the City as an additional insured, verifying that the applicant is insured against claims for personal injury, death, or property damages associated with work in the right-of-way, and requiring thirty (30) days notice to the City of cancellation or material modification of the policy.

D. Payment of a permit fee covering the City's administrative and management costs and any associated costs such at the cost of any right-of-way restoration that the City will completed.

**Subd. 4. Permit Conditions.** The City may deny a permit if a completed application is not filed, if the requirements and conditions of this ordinance are not met, or if the City determines that the denial is necessary to protect the health, safety, and welfare or to protect the right-of-way. The City may impose reasonable conditions upon the issuance of the permit to protect the public health, safety and welfare or the right-of-way. Such conditions may include a requirement that the permittee post a construction performance bond in conformance with Minnesota Rules, part 7819.3000.

**Subd. 5. Permit Fees**. The City shall establish an appropriate permit fee schedule. Unless otherwise agreed to in a franchise, right-of-way permit fees are separate from and in addition to franchise fees imposed on a right-of-way user.

**Subd. 6. Work Standards.** All work performed in the right-of-way shall be done in conformance with Minnesota Rules, part 7819.1100 and applicable local requirements.

(08-01-12)

**Subd. 7. Right-of-Way Restoration.** A permittee shall promptly patch and restore the right-of-way to a condition equivalent to that prior to its work. The permittee shall complete restoration according to Minnesota Rules, part 7819.1100. If the pavement settles and the City corrects the problem, the permittee shall pay to the City all costs associated with correcting the problem within thirty (30) days of billing. If the permittee fails to restore the right-of-way as required, the City may complete the work at permittee's expense including by making claim against any construction performance bond.

**Subd. 8. Completion and Inspection.** The permittee shall notify the City in writing when the work under a permit is completed. The City personnel may inspect the work site at any time during or upon completion of the work. The City may order cessation of work which poses a serious threat to the life, health, safety or well being of the public.

**Subd. 9. Work Without a Permit.** Except in an emergency, any person who performs work in a right-of-way without the necessary permit must immediately obtain a permit and pay double the normal permit fee.

**Subd. 10. Revocation of Permit.** The City may revoke any right-of-way permit without refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. Prior to revocation, the City shall make a written demand upon the permittee to remedy such violation. Within twenty-four (24) hours of receipt, the permittee shall provide a plan acceptable to the City to cure the violation or breach. The permittee's failure to timely respond or implement an approved plan shall be cause for immediate revocation of the permit.

**Subd. 11. Location of Facilities.** The City may impose reasonable restrictions on the location of any equipment or facilities to-be located in the right-of-way. The City may assign specific locations within the right-of-way for each type of facility. Permits issued by the City may designate the location for the facilities at issue. The City may prohibit the placement of facilities within the right-of-way if necessary to protect health, safety, and welfare, or protect the right-of-way and its current use.

**Subd. 12. Relocation of Facilities.** Upon the City's written request, a person with facilities in the right-of-way shall promptly, and at its own expense, remove and relocate its facilities as necessary to prevent interference in connection with a public project, and not merely for the convenience of the City, or as necessary to further public health or safety.

**Subd. 13. Indemnification and Liability.** By applying for and accepting a permit under this ordinance, a permittee agrees to defend and indemnify the City in accordance with the provisions of Minnesota Rules, part 7819.1250.

**Subd. 14. Abandoned Facilities.** Unless waived by the City, any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if necessary to accommodate other right-of-way repair, excavation, or construction.

(08-01-12)

**Subd. 15. Appeal.** A right-of-way user may have any City decision or action on a right-of-way permit reviewed by the City Council upon written request made within thirty (30) days of such decision or action. The City Council decision will be writing and supported by written findings.

**Subd. 16. Reservation of Regulatory and Police Powers.** A permittee's rights are subject to the City's regulatory and police powers, including the power to adopt and enforce general ordinances to protect the public health, safety and welfare.

**SEC. 7.09. REGULATION OF GRASS, HEEDS AND TREES**.

**Subd. 1. City to Control Tree Planting (Standards).** The City shall have control and supervision of planting shrubs and trees upon, or overhanging, all the streets or other public property. The City may establish and enforce uniform standards relating to the kinds and types of trees to be planted and the placement thereof. Such standards shall be kept on file in the office of the City Administrator and may be revised from time to time by action of the Council upon the recommendation of the City Administrator.

**Subd. 2. Permit Required.** It is unlawful for any person to plant, spray, trim or remove trees or other plants which are upon City property, including rights-of-way, without first procuring from the City a permit in writing to do so.

**Subd. 3. Duty of Property Owners to Cut Grass and Weeds.** (Ord. 63; Repealed, Ord. 89, Second Series, 3-18-08; Added, Ord. 89, Second Series, 3-18-08)

**A.** Every owner of a parcel of property totaling less than two acres and abutting a street shall cut and maintain the grass and weeds on such parcel to a height not exceeding six inches.

**B.** Every owner of a parcel of property totaling two or more acres and abutting a street shall cut and maintain the grass and weeds on such parcel to a height not exceeding six inches in the front yard of such parcel, and 20 inches on the remainder of such parcel.

**C.** The foregoing requirements shall not apply to:

**1.** gardens;

**2.** agricultural land that is actively farmed;

**3.** areas that are infeasible to mow, cut and maintain due to natural conditions such as rock outcroppings, excessive slope, wet soils or lands with pervasive moisture, or other similar conditions as determined by the weed inspector.

(08-01-12)

**D.** Every owner of a parcel of property abutting on a street, sidewalk or other public right-of-way shall trim, cut or otherwise maintain trees and shrubs located thereon from the abutting property line to the center of such street or right-of-way provided, however, that the City may complete such work without advance notice in order to protect the public health, safety or welfare or to ensure safe and convenient travel on streets, sidewalks or other public rights-of-way.

**E.** The weed inspector, or designated representative, is authorized to carry out enforcement of this Section 7.09, Subdivision 3.

**Subd. 4. City May Order Work Done.** In the event of failure to comply with this Section 7.09, the City may perform grass and weed mowing, cutting and maintenance work keeping an accurate account of the cost thereof for each lot or parcel of land. Prior to the City's completion of the work, the weed inspector must send written notice of non-compliance to the property owner, or property taxpayer identified in current County records. If the owner or taxpayer does not comply within ten business days of the date of notice, the weed inspector may post notice at the property and proceed with completion of the work. (Repealed, Ord. 89, Second Series, 3-18-08; Added, Ord. 89, Second Series, 3-18-08)

**Subd. 5. Assessment.** The City may assess the cost of mowing, cutting or otherwise maintaining property under this Section 7.09 in accordance with Section 10.42, Subdivision 5 of the City Code. (Repealed, Ord. 89, Second Series, 3-18-08; Added, Ord. 89, Second Series, 3-18-08)

**SEC. 7.10. LOAD LIMITS.** The City may, from time to time, impose upon vehicular traffic on any part or all of the streets such load limits as may be necessary or desirable. Such limits, and the specific extent or weight to which loads are limited, shall be clearly and legibly sign-posted thereon. It is a misdemeanor for any person to operate a vehicle on any street in violation of the limitation so posted.

**SEC. 7.11. REQUIREMENT OF SEWER AND WATER MAIN SERVICE LATERAL INSTALLATION.**

**Subd. 1. Requirement of Sewer and Water Laterals.** No petition for the improvement of a street shall be considered by the Council if such petition contemplates constructing therein any part of a pavement or stablized base, or curb and gutter, unless all sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along such street will be served by such utilities installed in the street.

**Subd. 2. Sewer System Service and Water Main Service Laterals.** No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

**Subd. 3. Waiver.** The Council may waive the requirements of this Section only if it finds the effects thereof are burdensome and upon such notice and hearing as the Council may deem necessary or proper.

(03-18-08)

**SEC. 7.12. SIDEWALK MAINTENANCE AND REPAIR.**

**Subd. 1. Primary Responsibility.** It is the primary responsibility of the owner of property upon which there is abutting any sidewalk to keep and maintain such sidewalk in safe and serviceable condition.

**Subd. 2. Construction, Reconstruction and Repair Specifications.** All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the City Administrator.

**Subd. 3. Notice - No Emergency.** Where, in the opinion of the City Administrator, no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within 90 days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

**Subd. 4. Notice - Emergency.** Where, in the opinion of the City Administrator, an emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ten days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

**Subd. 5. Failure of Owner to Reconstruct or Make Repairs.** If the owner of the abutting property fails to make repairs or accomplish reconstruction as herein required, the City Administrator shall report such failure to the Council and the Council may order such work to be done under its direction and the cost thereof assessed to the abutting property owner as any other special assessment.

**Subd. 6. Inspection.** The Public Works Superintendent shall make such inspections as are necessary to determine that sidewalks are kept in safe and serviceable condition.

**SEC. 7.13. ALLEY REPAIR.**

**Subd. 1. Alley Defined.** For the purpose of this Section, the term "alley" means a street abutting upon the rear of any lot or parcel of land.

**Subd. 2. Primary Responsibility.** It is the primary responsibility of each owner of property abutting upon any alley to bear the cost of repair of such alley.

**Subd. 3. Charges.** Cost for the repair or reconstruction of an alley may be assessed by the City against abutting owners. (7-1-90)

**(Sections 7.14 through 7.98, inclusive, reserved for future expansion.)**

(3-18-08)

**SEC. 7.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when they perform an act thereby prohibited or declared unlawful, or fail to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

**Subd. 1.** Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, they shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, they shall be punished as for a misdemeanor; where they stand convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, they shall be punished as for a misdemeanor.

**Subd. 2.** As to any violation not constituting a misdemeanor under the provisions of Subdivision 1 hereof, they shall be punished as for a petty misdemeanor. (7-1-90)

(3-18-08)

**SUB-ANALYSIS**

**Title**

**CHAPTER 8 TRAFFIC REGULATIONS**

(SEE CHAPTER 7 FOR DEFINITIONS, SCOPE AND APPLICATION RELATING TO THIS CHAPTER)


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# CHAPTER 8 TRAFFIC REGULATIONS

## (SEE CHAPTER 7 FOR DEFINITIONS, SCOPE AND APPLICATION RELATING TO THIS CHAPTER)

**SECTION 8.01. HIGHWAY TRAFFIC REGULATION ACT ADOPTED BY REFERENCE.** Except as otherwise provided in this Chapter, or in Chapters 7 and 9 of this Code, Minnesota Statutes, Chapter 169, (commonly referred to as the Highway Traffic Regulation Act), as amended through Laws 1997, is hereby incorporated herein and adopted by reference, including the penalty provisions thereof.

Source: Ordinance No. 38. Second Series
Effective Date: 6-25-98

**SEC. 8.02. TRUCK ROUTE.** It is unlawful for any person to drive a tractor, agricultural implement, truck over 9,000 pounds gross vehicle weight, truck-trailer, tractor-trailer or truck tractor in through traffic, upon any street except those which have been designated and sign-posted as truck routes. For the purpose of this Chapter, "through traffic" means originating without the City and with a destination without the City, as distinguished from "local traffic" which means traffic either originating or having a destination within the City.

**SEC. 8.03. BICYCLES AND OTHER NON-MOTORIZED RECREATIONAL DEVICES.** (Amended, Ord. 8-15-06)

**Subd. 1. Purpose.** The purpose of this Section is to establish safety regulations to protect the public welfare by regulating and establishing rules regarding the use and operation of bicycles and other non-motorized recreational devices in the City. "Non-motorized recreational devices" shall include skateboards, roller skates and roller blades. (Amended, Ord. 8-15-06)

**Subd. 2. Application.**

**A.** No person shall ride, operate or propel a bicycle or other non-motorized recreational device on any street, sidewalk, or other public place unless in compliance with the provisions of this Section. (Amended, Ord. 8-15-06)

**B.** This Section is applicable to all bicycles and other non-motorized recreational devices and shall apply whenever a bicycle or other non-motorized recreational device is operated upon any street, roadway or upon any public path. (Amended, Ord. 8-15-06).

**Subd. 3. Altering Serial Number**. No person shall willfully remove, obliterate, or alter the number on the frame of any bicycle.

**Subd. 4. Obedience to Traffic Laws**. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the drivers of other vehicles under the laws of the State of Minnesota, except those traffic laws and provisions which by their nature can have no application.

**Subd. 5. Obedience to Traffic Control Devices.**

**A.** Any person operating a bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a peace officer.

**B.** Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle shall disobey dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

**Subd. 6. Manner of Riding.** A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

**Subd. 7. "Bucking" Prohibited.** No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

**Subd. 8. Hitching Rides.** No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any car or vehicle upon a roadway.

**Subd. 9. Ride on the Right.** Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(8-15-06)

**Subd. 10. Ride Single File.** Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

**Subd. 11. Bicycle Paths.** Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

**Subd. 12. Riding on Sidewalks.** No person shall ride a non-motorized recreational device upon a sidewalk within a C-1 or C-2 (business) district in a manner that may damage public or private property or recklessly endanger other persons. Nothing in this subdivision shall be construed to prohibit people with physical disabilities from using wheeled devices necessary for ambulatory assistance. (Amended, Ord. 8-15-06)

**Subd. 13. Pedestrian Right-of-Way.** Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

**Subd. 14. Restricted Sidewalks.** Wherever the City has erected a sign on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall ride a bicycle thereon while such signs are in place.

**Subd. 15. Speed.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

**Subd. 16. Emerging From Alley or Driveway.** The operator of a bicycle emerging from an alley, driveway or building, shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

**Subd. 17. Carrying Articles.** No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

**Subd. 18. Lights Required.** Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

**Subd. 19. Brakes Required.** Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

**Subd. 20. Enforcement.** The provisions of this Section shall be enforced as follows:

**A.** Any individual under the age of 16, upon any violation of the provisions of this Section, shall receive a warning ticket issued by the Sheriff's Department. Each individual in this class shall be instructed to have the warning ticket signed by a parent and returned to the Sheriff's Department within seven (7) days from the date of the violation. If said ticket is not remitted within the time period set forth, then the matter shall be referred to Juvenile Court for prosecution.

**B.** Any individual between the ages of 16 and 18, upon any violation of the provisions of this Section, shall receive a tab charge, and the matter will be prosecuted in Juvenile Court.

**Subd. 21. Unlawful Act.** It is unlawful for any person to violate a provision of this Section.

Source: City Code
Effective Date: 7-1-90

**SEC. 8.04. U-TURNS.**

**Subd. 1. Purpose.** The purpose of this Section is to establish safety and control regulations to protect the public welfare by regulating and establishing rules regarding the exercise of "U-Turns" along certain locations on Main Street.

**Subd. 2. Definitions.** The following term, as used in this Section, shall have the meanings stated:

**A. "U-Turn"** - A turn or maneuver of a vehicle whereby the vehicle: (i) is turned so as to proceed in a direction opposite from which the vehicle was being driven prior to the turn; (ii) is turned across the center or median line and parked on the opposite side of the street; or (iii) is backed across the center or median line so as to travel in a direction opposite that of the direction from which the vehicle was parked.

**Subd. 3. No U-Turn.** It is unlawful for any person to make a U-Turn on Main Street at, and at any point between, Center Street and 4th Street.

**Subd. 4. Signage.** Specific signage indicating "No U-Turn" shall be erected at the intersections of Main Street and Center Street, South 2nd Street, 3rd Street, and 4th Street.

Source: Ordinance No. 95-3, Second Series
Effective Date: 3-16-95

**SEC. 8.05. EXHIBITION DRIVING.**

**Subd. 1. Prima Facie Evidence.** It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.

**Subd. 2. Unlawful Act.** It is a misdemeanor for any person to do any exhibition driving on any street, parking lot, or other public or private property, except when an emergency creates necessity for such operation to prevent injury to persons or damage to property; provided, that this Section shall not apply to driving on a racetrack. For purposes of this Section, a "racetrack" means any track or premises whereon motorized vehicles, horses, dogs, or other animals or fowl legally compete in a race or timed contest for an audience, the members of which have directly or indirectly paid a consideration for admission.

**SEC. 8.06. ONE-WAY STREETS.**

**Subd. 1.** The Council may, by resolution, designate streets as one-way streets.

**Subd. 2.** It is a misdemeanor for any person to travel upon any one-way street in a direction opposite that designated when the same has been duly sign-posted.

**SEC. 8.07. EMERGENCY VEHICLES**. The provisions of this Chapter shall not apply to vehicles when operated with due regard for safety, under the direction of police officers in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to Fire Department or fire patrol vehicles when traveling in response to a fire alarm, nor to public ambulances when traveling in emergencies. This exemption shall not, however, protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.

Source: City Code
Effective Date: 7-1-90

**SEC. 8.08. OPERATION OF MOTORIZED GOLF CARTS ON ROADWAYS.**

**Subd. 1. Scope of Application.** Notwithstanding provisions of this Chapter to the contrary, this Section shall apply to control of traffic and regulation of the operation of motorized golf carts on the roadways or portions thereof, designated herein. All provisions of this Chapter not relating to the matters herein stated, apply as equally to motorized golf carts as other vehicles.

**Subd. 2. Permit Required.** Permits shall be issued only to persons 18 years of ago or older who have a valid Minnesota driver's license. Authorization to operate a motorized golf cart on the roadways designated in this Section is by permit only. All applications for a permit to operate a motorized golf cart on the roadways or streets shall include the name and address of the applicant and such other information as may, from time to time, be required by the Council and shall be made upon forms available at the office of the City Administrator that have been prescribed by the City for such purpose. At the time of submitting the application, the applicant must provide evidence of insurance complying with the provision of Minnesota Statutes, Section 65B.48, Subd. 5, as the same now exists or may hereafter be amended. The permit period may not exceed one year, but applications for renewal permits may be made in such abbreviated form as the Council may, by resolution, adopt. Permits issued by the Council may be revoked at any time if there is evidence that the permittee cannot safely operate the motorized golf cart on the roadways designated in this Section. As a condition to obtaining a permit, the applicant must submit a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart on roadways designated in this Section. The annual fee for a permit shall be fixed by resolution of the Council.

**Subd. 3. Operation.**

**A.** It is not a violation of this Chapter to operate a motorized golf cart on any roadway within the City limits of the City.

**B**. Operation of a motorized golf cart on the roadways is authorized only from sunrise to sunset, and motorized golf carts may not be operated in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet. The operator, under permit of a motorized golf cart, may cross any street or highway intersecting a roadway; and all motorized golf carts shall display the "slow moving

vehicle" emblem as provided for in Minnesota Statutes, Section 169.522, as the same exists on the effective date of this Section, or as may hereafter be amended, when operated on roadways. All motorized golf carts must be equipped with rear view mirrors; and each motorized golf cart driven upon a roadway shall remain at, or as close as possible, to the curb.

**C**. Every person operating a motorized golf cart under permit on roadways, has all the rights and duties applicable to the driver of any other motor vehicle under the provisions of this Chapter or State law, except when those provisions cannot reasonably be applied to motorized golf carts and except as provided in Minnesota Statutes, Section 169.045, Subd. 7, as the same exists on the effective date of this Section, or as said statute may hereafter be amended.

**Subd. 4. Unlawful Act.** It is unlawful for any person to do any act forbidden or fail to perform any act required by this Section; except that (1) a violation which is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property; or (2) a violation of any of the provisions of this Chapter, when preceded by two or more petty misdemeanor convictions in the immediate preceding 12 month period; is a misdemeanor.

Source: Ordinance No. 6, Second Series
Effective Date: 12-19-91

**SECTION 8.09 - TRAFFIC OFFICERS** (Added, Ord. No. 81, 7/19/05)

**Subd. 1. Purpose.** The purpose of this Section is to promote the safe and efficient traffic flow through the City of Pine Island, during periods of peak traffic congestion.

**Subd. 2. Regulations.**

**A.** The City of Pine Island may hire one or more persons, to be known as Traffic Officers, to direct traffic.

**B.** A "Traffic Officer" is a person trained to safely and efficiently direct the flow of vehicular and pedestrian traffic at public street intersections, so as to promote the safe conveyance of people in and through the City during periods of peak traffic congestion. Said Traffic Officer is not a peace officer, and has no authority to issue citations, shall not be armed, and shall not act in the capacity of a law enforcement officer.

**C.** The Traffic Officer's duty shall be to direct traffic in locations and during time periods as directed by the City Administration.

**D.** The City shall provide or arrange for appropriate training and supervision of said Traffic Officer.

(Sections 8.10 through 8.19, inclusive, reserved for future expansion.)

**SECTION 8.20 - SNOWMOBILES AND ALL TERRAIN VEHICLES ORDINANCE #42 SECOND SERIES**

**Subd. 1: DEFINITIONS.** For the purposes of this Section, the terms defined herein shall have the meaning ascribed to them:

**A.** "Person" includes an individual, partnership, corporation, the State and its agencies and subdivisions and any body of persons, whether incorporated or not.

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

**C.** "All Terrain Vehicle" or "ATV" refers to "trail bikes", "mini bikes", "amphibious vehicles" and similar devices other than snowmobiles used at least partially for travel on natural terrain but not "special mobile equipment" defined in M.S. 168.011, Subd. 22.

**D.** "Owner" means a person, other than a lien holder, having the property in or title to snowmobile or ATV, entitled to the use or possession thereof

**E.** "Operate" means to ride in or on and control the operation of a snowmobile or ATV.

**F.** "Operator" means every person who operates or is in actual physical control of a snowmobile or ATV.

**G.** "Deadman Throttle" or "Safety Throttle" means a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

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

**I.** "City of Pine Island" and all references in this Section thereto, shall apply to the area within the corporate limits of the City of Pine Island.

**Subd. 2: MOTOR VEHICLE LICENSE REQUIRED.** Except as herein specifically permitted and authorized, it is unlawful for any person to operate a snowmobile or ATV not licensed as a motor vehicle, within the limits of the City of Pine Island:

**A.** On the portion of any right of way of any public highway, street, road, trail or alley used for motor vehicle travel, except they may operate upon the most right hand lane of a municipal street or alley unless otherwise herein or hereafter restricted, and may, in passing or making a left turn, operate on other lanes which are used for vehicle traffic in the same direction, for purposes of going to or returning from a non-highway area of permissible operation, by the most direct route; and they may also be operated upon the ditch bottom or the outside bank of trunk, county, state-aid and county highways where such highways are so configured within the corporate limits.

**B.** On a public sidewalk provided for pedestrian travel.

**C.** On boulevards within any public right of way.

**D.** On private property of another without specific permission of the owner or person in control of said property.

**E.** On school property, municipal parks, municipal recreation areas, cemeteries and on any other public lands and properties, except as may be specifically permitted by other provisions of the City Ordinances.

**Subd. 3. CROSSING BY SNOWMOBILE OR ATV.** A snowmobile or ATV may make a direct crossing of a street or highway, except an interstate highway or freeway, provided:

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

**B.** The snowmobile or ATV is brought to a complete stop before crossing the shoulder or main traveled way.

**C.** The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard.

**D.** In crossing a divided street or highway, the crossing is made only at an intersection of such street or highway with another public street or highway.

**E.** If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise, or in conditions of reduced visibility, then only if both front and rear lights are on.

**Subd. 4. TRAFFIC ORDINANCES APPLY.** City Traffic Ordinances shall apply to the operation of snowmobiles and ATV's upon streets and highways, except for those relating to required equipment, and except those which by their nature have no application.

**Subd. 5. INTERSECTIONS.** No snowmobile or ATV shall enter any intersection without yielding the right of way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

**Subd. 6. PERSONS UNDER EIGHTEEN (18).**

**A.** No person under fourteen (14) years of age shall operate on streets or the roadway surface of highways or make a direct crossing of a trunk, County state-aid, County highway, or City street as the operator of a snowmobile or ATV. A person fourteen (14) or fifteen (15) years of age accompanied by a parent or guardian, and a person sixteen (16) years of age or older, but less than (18) years of age, may operate a snowmobile or ATV on streets and highways as permitted under this Section and make a direct crossing of such streets and highways only if he/she has in his/her immediate possession, a valid snowmobile safety certificate used by the Commissioner, as provided by M.S.A. Section 84.872.

**B.** It is unlawful for the owner of a snowmobile or ATV to permit the snowmobile or ATV to be operated contrary to the provisions of this Subdivision.

**Subd. 7. UNLAWFUL ACTS.** It is unlawful for any person to operate a snowmobile, ATV not licensed for highway use or ATV licensed for highway use when operating on natural terrain, within the limits of the City of Pine Island:

**A.** At any place, while under the influence of alcohol or drugs as defined in M.S. 169.121, which is hereby incorporated herein by reference.

**B.** At a rate of speed greater than ten (10) miles per hour.

**C.** At any place in a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger or be likely to endanger or cause injury or damage to any person or property.

**D.** During the hours from 10:00 p.m. to 7:00 a.m. of any day, except that during said prohibited hours of operation, such operation shall be permitted when returning to the City of Pine Island for the purpose of following the most direct practical route possible from a point outside the limits of the City of Pine Island to the residence of the operator or passenger, and except during the prohibited hours of operation such operation shall be permitted for the purpose of leaving the City of Pine Island by the most direct practical route possible to go to a specific destination outside of the City of Pine Island.

**E.** So as to tow any person or thing except through use of a rigid tow bar attached to the rear of the snowmobile or ATV.

**F.** Within 100 ft. of any skating rink, sliding area or where the operation would conflict with use or endanger other persons or property.

**Subd. 8. REQUIRED EQUIPMENT.** It is unlawful for any person to operate a snowmobile or ATV any place within the limits of the City of Pine Island unless it is equipped with the following:

**A.** Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a snowmobile or ATV motor.

**B.** Brakes adequate to control the movement of and to stop and hold the snowmobile or ATV under any condition of operation.

**C.** A safety or so-called "deadman" throttle in operating condition.

**D.** When operated between the hours of one-half hour after sunset to one-half hour before sunrise, or at times of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 ft. ahead during the hours of darkness and under normal atmospheric conditions. Such head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile or ATV operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 ft. to the rear during hours of darkness under normal atmospheric conditions.

**E.** Reflective material at least 16 square inches on each side, forward of the handlebars or steering device of a snowmobile or ATV and at the highest practical point on any towed object, as to reflect light at a ninety (90) degree angle.

**F.** A pennant flag of red or blaze material, of a size not less than 12 inches by 12 inches by 9 inches, properly attached at a height of not less than 6 feet from ground level at any time when the vehicle is operated on public streets.

**Subd. 9. UNATTENDED VEHICLE.** Every person leaving a snowmobile or ATV on a public place shall lock the ignition, remove the key and take the same with him/her.

**Subd. 10. EMERGENCY OPERATION.** Notwithstanding any prohibitions in this Section, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when, and at locations where, snow upon the roadway renders travel by automobile impractical.

**Subd. 11. ANIMALS.** It is unlawful to intentionally drive, chase, run over or kill any animal with a snowmobile or ATV.
Adopted this 17thday of November, 1998.

**Subd. 12. Signal From Officer to Stop.** It is unlawful for a snowmobile operator, after having received a visible or audible signal from any law enforcement officer to come to a stop, to (1) operate a snowmobile in willful or wanton disregard of such signal, or (2) interfere with or endanger the law enforcement officer or any other person or vehicle, or (3) increase his speed or attempt to flee or elude the officer.

**Subd. 13. Certain Statutes Adopted.** Minnesota Statutes, Sections 84.81 through 84.911, inclusive, as amended in 1987, together with rules and regulations promulgated thereunder, are hereby adopted by reference, incorporated herein, and made a part hereof, except as otherwise provided herein.

Source: City Code
Effective Date: 7-1-90

(Sections 8.21 through 8.98, inclusive, reserved for future expansion.)

**SEC. 8.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

**Subd. 1.** Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he shall be punished as for a misdemeanor.

**Subd. 2.** As to any violations not constituting a misdemeanor under the provisions of Subdivision 1 hereof, he shall be punished as for a petty misdemeanor.

**Subd. 3.** As to any violation of a provision adopted by reference, he shall be punished as specified in such provision, so adopted.

Source: City Code
Effective Date: 7-1-90

**SUB-ANALYSIS**

**Title**

# CHAPTER 9 PARKING REGULATIONS

(SEE CHAPTER 7 FOR DEFINITIONS, SCOPE AND APPLICATION RELATING TO THIS CHAPTER)


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# CHAPTER 9
# PARKING REGULATIONS

**(SEE CHAPTER 7 FOR DEFINITIONS, SCOPE AND APPLICATION RELATING TO THIS CHAPTER)**

**SECTION 9.01. PRESUMPTION.** As to any vehicle parking in violation of Chapters 1, 8 and 9 when the driver thereof is not present, it shall be presumed that the owner or lessee of such vehicle parked the same, or that the driver was acting as the agent of the owner or lessee.

**SEC. 9.02. GENERAL PARKING PROHIBITIONS.** It is unlawful for any person to stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a peace officer or traffic control device in any of the following places: (1) on a sidewalk; (2) in front of a public or private driveway; (3) within an intersection; (4) within ten feet of a fire hydrant; (5) on a crosswalk; (6) within 20 feet of a crosswalk at any intersection; (7) in a sign-posted fire lane; (8) within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway; (9) within 50 feet of the nearest rail of a railroad crossing; (10) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign-posted; (11) alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic; (12) on the roadway side of any vehicle stopped or parked at the edge or curb of a street; (13) upon any bridge or other elevated structure upon a street; (14) at any place where official signs prohibit or restrict stopping, parking or both; (15) in any alley, except for loading or unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises; or, (16) on any boulevard which has been curbed.

**SEC. 9.03. RECREATIONAL CAMPING VEHICLE PARKING.**

**Subd. 1. Definition.** The term "recreational camping vehicle" means any of the following:

**A. "Travel Trailer"** - A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "Travel Trailer" by the manufacturer of the trailer.

**B. "Pick-up Coach"** - A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

(4-21-09)

**C. "Motor Home"** - A portable, temporary building to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

**D. "Camping Trailer"** - A folding structure, mounted on wheels and designed for travel, recreation and vacation uses.

**Subd. 2. Unlawful Act**. It is unlawful for any person to leave or park a recreational camping vehicle on or within the limits of any street or right-of-way for a continuous period in excess of 48 hours, except where signs are erected designating the place as a campsite or in a mobile home park. Provided, however, that during such 48-hour period, such vehicle shall not be occupied as living quarters.

**SEC. 9.04. UNAUTHORIZED REMOVAL**. It is unlawful for any person to move a vehicle not owned, leased or under the control of such person into any prohibited area or away from a curb such distance as is unlawful.

**SEC. 9.05. DIRECTION TO PROCEED**. It is unlawful for any person to stop or park a vehicle on a street when directed or ordered to proceed by any peace officer invested by law with authority to direct, control or regulate traffic.

**SEC. 9.06. PARALLEL PARKING**. Except where angle parking is specifically allowed and indicated by curb or street marking or sign-posting, or all or any of them, each vehicle stopped or parked upon a two-way road where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with, and within 12 inches of, the right-hand curb, and, where painted markings appear on the curb or the street, such vehicle shall be within such markings, front and rear; provided that upon a one-way roadway all vehicles shall be so parked, except that the left-hand wheels of the vehicle may be parallel with and within 12 inches from the left-hand curb, but the front of the vehicle in any event and with respect to the remainder of the vehicle, shall be in the direction of the flow of traffic upon such one-way street; and it is unlawful to park in violation of this Section.

**SEC. 9.07. ANGLE PARKING**. Where angle parking has been established by Council resolution, and is allowed, as shown by curb or street marking or sign-posting, or all or any of them, each vehicle stopped or parked shall be at an angle of approximately 45 to 60 degrees with the front wheel touching the curb and within any parking lines painted on the curb or street, provided that the front wheel not touching the curb shall be the portion of the vehicle furthest in the direction of one-way traffic; and it is unlawful to park in violation of this Section.

**SEC. 9.08. PARKING HOURS.** Parking on streets shall be limited as follows:

**Subd. 1**. It is unlawful for any person to stop, park or leave standing any vehicle upon any street for a continuous period in excess of 72 hours.

**Subd. 2**. The City Administrator may, when authorized by resolution of the Council, designate certain streets, blocks or portions of streets or blocks as prohibited parking zones, or five-minute, ten-minute, 15 minute, 30 minute, one-hour, two-hour, four-hour, six-hour, eight-hour, morning or afternoon rush hour limited parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the sign-posted limitation, or during sign-posted hours of prohibited parking.

**Subd. 3**. For the purpose of enforcement of this Section, any vehicle moved less than 100 feet in a limited time parking zone shall be deemed to have remained stationary. (Amended, 7-1-90)

**SEC. 9.09. SNOW REMOVAL** It is unlawful for any person to park a vehicle on any street after a snowfall during which there has been any accumulation of snow on any street, and until all snow, ice and similar debris has been plowed or removed from the paved portion of the street. (Amended, 2-29-96, Amended, Ord. No. 125, Second Series, 9-25-2013)

**SEC. 9.10. TRUCK PARKING.**

**Subd. 1.** It is unlawful to park a detached semi-trailer upon any street, City-owned parking lot, or other public property except such as are specifically designated by the Council by resolution and sign-posted.

**Subd. 2**. It is unlawful to park a truck (other than a truck of 9,000 pounds gross vehicle weight, or less), truck- trailer, tractor-trailer or truck-tractor within an area zoned as a residential district except for the purpose of loading or unloading the same, and then only during such time as is reasonably necessary for such activity.

**Subd. 3**. It is unlawful to park a truck of more than 9,000 pounds gross vehicle weight upon any street in the business district which has been duly sign-posted prohibiting the same, but parking of such vehicle for a period of not more than 20 minutes shall be permitted in such space for the purpose of necessary access to abutting property while actively loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

**Subd. 4**. It is unlawful to park a truck or other vehicle using or equipped with a trailer, or extended body or other extension or projection beyond the original length of such vehicle, or any passenger bus, diagonally along any street except for a time sufficient to load or unload, and in such case, only parallel parking shall be permitted. Provided, however, that a truck may stand backed up to the curb if the weight or bulk of the load makes parallel parking impracticable, but then only for a period of time sufficient to load or unload.

**Subd. 5**. Parking of commercial vehicles is permitted in duly designated and sign-posted loading zones, and in alleys, for a period of up to 20 minutes, provided that such alley parking does not prevent the flow of traffic therein, all of which shall be for the purpose of access to abutting or adjacent property while actively loading or unloading. (Amended, 7-1-90)

**SEC. 9.11. PARKING RULES IN CITY PARKING LOTS**. In City-owned parking lots, the Council may limit the sizes and types of motor vehicles to be parked thereon, hours of parking, and prescribed method of parking, provided that such limitations and restrictions are marked or sign-posted thereon. It is unlawful to park or leave standing any vehicle backed into a parking place, to drive in a direction opposite the flow of traffic marked by "one-way" signs or arrows, or to park any vehicle in any City-owned parking lot for a continuous period in excess of 24 hours, or contrary to the restrictions or limitations marked or sign-posted therein. (Amended, Ord. No. 12, 7-30-92)

**(Sections 9.12 through 9.19, inclusive, reserved for future expansion.)**

**SEC. 9.20. IMPOUNDING AND REMOVING VEHICLES**. When any peace officer finds a vehicle standing upon a street or City-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 the same to a position in compliance with this Chapter. When any peace officer finds a vehicle unattended upon any street or City-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 and to remove the same to a convenient garage or other facility or place of safety; provided, that if any charge shall be placed against such vehicle for cost of removal or storage, or both, by anyone called upon to assist therewith the same shall be paid prior to removal from such place of storage or safekeeping.

**SEC. 9.21. LOADING ZONES.** The Council may, by resolution, establish loading zones to be used for the specific purpose of loading or unloading merchandise from a commercial vehicle or vehicle temporarily being utilized in the transport of merchandise. Such loading zones shall be installed by order of the City Administrator where in the judgment of the Council a commercial loading zone is justified, and duly sign-posted.

**SEC. 9.22. UNATTENDED VEHICLE**.

**Subd. 1**. It is unlawful for any person to leave a motor vehicle unattended while the engine is running.

**Subd. 2**. It is unlawful for any person to leave a motor vehicle unattended with the key in the ignition.

**SEC. 9.23. PARKING FOR THE PURPOSE OF ADVERTISING OR SELLING MERCHANDISE**. It is unlawful for any person to park a vehicle on any street for the purpose of advertising such vehicle for sale, for the purpose of advertising for sale or selling merchandise thereon or therein, or advertising any merchandise for sale or a forthcoming event.

**SEC. 9.24. PHYSICALLY HANDICAPPED PARKING.**

**Subd. 1**. Statutory parking privileges for physically handicapped shall be strictly observed and enforced. Peace officers are authorized to tag vehicles on either private or public property in violation of such statutory privileges.

**Subd. 2**. It is unlawful for any person, whether or not physically handicapped, to stop, park, or leave standing, a motor vehicle (1) in a sign-posted fire lane at any time, or (2) in lanes where, and during such hours as, parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.

**SEC. 9.25. PARKING ON PRIVATE PROPERTY WITHOUT CONSENT**. It is unlawful to park or abandon a motor vehicle on the property of another, or upon an area developed as an off-street parking facility, without the consent of the owner, lessee or person in charge of any such property or facility. (Amended, 7-1-90; Ord. No. 98 Second Series, 4-21-09)

**(Sections 9.26 through 9.98, inclusive, reserved for future expansion.)**

**SEC. 9.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR**. Every person violates a section, subdivision, paragraph or provision of this Chapter when a person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

**Subd. 1.** Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, a person shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, a person shall be punished as for a misdemeanor; where a person stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, a person shall be punished as for a misdemeanor.

**Subd. 2.** As to any violation not constituting a misdemeanor under the provisions of Subdivision 1 hereof, a person shall be punished as for a petty misdemeanor. (Amended, 7-1-90)

**SUB-ANALYSIS**

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# CHAPTER 10

# PUBLIC PROTECTION, CRIMES AND OFFENSES

## SEC. 10.01. STORAGE, DEPOSIT AND DISPOSAL OF REFUSE.

**Subd. 1. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**A. "Solid Waste"** means garbage, rubbish, refuse, sludge from water treatment facilities or air contaminant treatment facilities, and discarded waste materials and sludges, in solid, semi-solid, liquid or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities.

**B. "Garbage"** means only organic waste resulting from the preparation of food and decayed and spoiled food from any source.

**C. "Rubbish"** means inorganic waste materials such as tin cans, glass, paper, cardboard, ashes, sweepings, yard clippings, bagged leaves not exceeding 60 pounds per bag, brush not exceeding four feet in length, securely bundled and no bulkier than one man can handle, and old Christmas trees.

**D. "Refuse"** includes both garbage and rubbish.

**Subd. 2. General Regulations.**

**A. Unauthorized Accumulation**. Any storage and collection of solid waste, other than as provided herein, is hereby declared to be a nuisance and is prohibited.

**B. Solid Waste in Streets, on Public and Private Property**. It is unlawful for any person to place any solid waste in any street or public place, or upon any private property except in proper containers for collection as herein provided. It is also unlawful for any person to throw or deposit solid waste in any stream or body of water.

**C. Scattering of Solid Waste**. It is unlawful for any person to deposit any solid waste in such a manner that it may be carried or deposited by the elements upon any public or private premises.

**D. Burying of Refuse; Composting**. It is unlawful for any person to bury any solid waste except in an approved sanitary landfill, but leaves, grass clippings, and easily biodegradable, non-poisonous garbage may be composted 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.

**E. Dumping at City Leaf and Brush Dump.** It is unlawful for any person to dump or discard leaves, brush or waste at the City's leaf and brush dump except at specified locations within the site, or discard waste at any other City property except in accordance with applicable requirements. (Added, Ord. 87, 4-17-07)

**Subd. 3. Disposal Required.**

**A. Duty to Dispose**. Every person shall, in a prompt and sanitary manner, dispose of the following types of solid waste that may accumulate upon property owned, leased or occupied by such person, to-wit: hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluent or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Act as amended, dissolved materials in irrigation return flows, or sources, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

**B. Mandatory Use of Licensed Collection Service**. Every person shall collect and dispose of solid wastes, other than the kinds of solid wastes described in Subparagraph A, above, by using and paying for the solid waste collection service licensed and authorized by the City.

**C. Exceptions**. This Section shall not prohibit the disposal of garbage in dwellings by any device which grinds and deposits the garbage in a sewer.

**D. Mandatory Collection Times**. Every person shall have their accumulated solid waste collected and disposed of by the collection service licensee at least once a week.

**Subd. 4. Containers.**

**A. General Requirements**. Every person shall provide one or more containers or plastic bags on the premises, to receive and contain all solid waste which may accumulate between collections. All normal accumulation of solid waste shall be deposited in such plastic bags or containers.

**B. Container Requirement**. All solid waste shall be placed in plastic bags or in standard type cans or containers not to exceed 35 gallons in capacity, or in any other containers approved in writing by the collection service licensee. All cans or containers shall be fitted with lids and shall be maintained in good and sanitary condition. Any such container not conforming to the requirements of this Section, or having ragged or sharp edges or any other defect likely to hamper or injure the person collecting the contents, shall be promptly replaced after notice by the City or its collection service licensee.

**C. Placement**. Each plastic bag, can or container shall be placed at the street curb, or within five feet of the street unless special arrangements are otherwise made with the collection service licensee.

**D. Use of Containers**. Refuse shall be drained of liquid before being deposited in such plastic bag, can or container. Highly inflammable or explosive material shall not be placed in such container. The collection service licensee and its employees shall handle all cans and containers with reasonable care to avoid damage and shall replace them in an upright position and shall immediately clean up and dispose of all contents thereof which may be spilled, in a workmanlike manner.

## SEC. 10.02. DANGEROUS WEAPONS AND ARTICLES.

**Subd. 1. Acts Prohibited.** It is unlawful for any person to:

**A.** Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,

**B.** Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,

**C.** Manufacture or sell for any unlawful purpose any weapon known as a sling-shot or sand club; or,

**D.** Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,

**E.** Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,

**F.** Sell or have in their possession any device designed to silence or muffle the discharge of a firearm; or,

**G.** Permit, as a parent or guardian, any child under 14 years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive; or,

**H.** Furnish a minor under 18 years of age with a firearm, air gun, ammunition, or explosive without the written consent of their parent or guardian or of the Police Department.

**I.** Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star, nun chuck, sharp stud or splat gun. For the purposes of this Subparagraph, (1) a "throwing star" means a circular metallic device with any number of points projecting from the edge, (2) a "nun chuck" means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod, (3) a "sharp stud" means a circular piece of metal attached to a wrist band, glove, belt or other material which protrudes one-fourth inch, or more, from the material to which it is attached, and with the protruding portion pyramidal in shape, sharp or pointed, and (4) a "splat gun" means a weapon which, by means of compressed air or gas, emits a projectile containing paint or other substance.

**Subd. 2. Exception.** Nothing in Subdivision 1 of this Section shall prohibit the possession of the articles therein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.

**Subd. 3. Exception.** Nothing in this Section shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of officer’s duty, or to a person in the lawful defense of their person or family. This Section shall not apply to the discharge of firearms in a range authorized in writing by the Council.

**Subd. 4. Possession and Sale of Fireworks.** It is unlawful for any person to sell, possess or have in possession for the purpose of sale, except as allowed in Subdivision 4 of this Section, any firecrackers, sky rockets or other fireworks.

**Subd. 5. Exposure of Unused Container.** It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges or latches.

**Subd. 6. Use of Bow and Arrow.** It is unlawful for any person to shoot a bow and arrow except in the Physical Education Program in a school supervised by a member of its faculty, a supervised class or event specifically authorized by the Council, or a bow and arrow range authorized by the Council. Provided, however, that the owner of land, and owner's guests by express invitation, may shoot a bow and arrow upon such land provided that no arrows shall pass beyond the boundaries of owner's property, or in any event create a nuisance or danger to other persons.

**SEC. 10.03. SHOOTING AND CARRYING OF FIREARMS**.

**Subd. 1. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**A. "Shooting"** means the firing of firearms of any kind whatsoever, regardless of the method of the propulsion of the ammunition, and includes, but is not limited to, the firing of shot guns, hand guns, air guns, pellet guns, B-B guns, and rifles.

**B. "Landowner"** means any person owning, leasing or legally controlling any lands within the geographical boundaries of the City.

**C. "Encased firearm"** means any weapon included in the above definition of "Shooting" placed in a case in such a manner as to prevent shooting of the same.

**D. "Dismantled Firearm"** means any weapon included in the above definition of "Shooting" which is dismantled in such a manner as to prevent shooting of the same.

**Subd. 2. Unlawful Acts.** It is unlawful for any person to shoot, or carry firearms which are not encased or dismantled, except:

**A.** A landowner, or landowner's guest by express invitation, upon lands owned by said landowner, may shoot or carry a firearm other than a rifle or hand gun, provided that no shot, bullet, or other ammunition used shall pass beyond the boundaries of landowner's property nor in any event create a nuisance or danger to other persons; or,

**B.** Law enforcement officers in the line of duty; or,

**C.** A person discharging any firearm when done in lawful defense of person, property or family or the necessary enforcement of the law.

**SEC. 10.04. ANIMAL LICENSING AND REGULATION.**

**Subd. 1. Definition.** For the purpose of this Section:

**A. "Owner**" means a person who owns an animal hereby regulated.

**B. "Own"** means to have a property interest in, or to, harbor, feed, board, keep or possess.

**C. "Dangerous Animal"** means an animal which has caused damage to property or injury to a person, or which animal, by its actions, exhibits a propensity for causing imminent danger to persons.

**D. "Dog"** means both male and female and includes any animal of the dog kind.

**E. "Animal"** means a dog or cat.

**F. "Cat"** means both male and female and includes any animal of the feline kind.

**Subd. 2. Running at Large Prohibited.** It is a petty misdemeanor for the owner of any animal to permit such animal to run at large. Any dog shall be deemed to be running at large with the permission of the owner unless it is on a durable leash secured to an object which it cannot move and on the premises of the owner, or on a leash and under the control of an accompanying person of suitable age and discretion, or effectively confined within a motor vehicle, building, or enclosure. Any cat shall be deemed to be running at large with the permission of the owner unless it is on the premises of the owner, or effectively confined within a motor vehicle, building, or enclosure.

**Subd. 3. License Required.** It is a petty misdemeanor for the owner of any animal, 180 days of age or more, to fail to obtain a license therefor from the City.

**Subd. 4. License Issuance, Term and Renewal.** All animal licenses shall be issued only upon presentation of a certificate issued by a veterinarian, licensed to practice veterinary medicine in the State of Minnesota, showing rabies immunization of the animal for at least the term of the license. All animal licenses shall expire on April 30. Application for license renewal, accompanied by a veterinarian's certificate, shall be made at least 30 days prior to expiration of the license. The City Administrator shall keep a record of all licenses issued under this Section and will issue a metal tag with each license issued.

**Subd. 5. Adoption of Fees.** All fees for the licensing, impounding and maintenance of animals, including penalties for late application, may be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may from time to time be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Administrator and open to inspection during regular business hours.

**Subd. 6. Tag Required.** All licensed animals shall wear a collar and have a tag firmly affixed thereto evidencing a current license. A duplicate for a lost tag may be issued by the City upon presentation of the receipt showing the payment of the duplicate license fee. Tags shall not be transferable, and no refund shall be made on any license fee because of leaving the City or death of the animal before the expiration of the license. It is a petty misdemeanor to counterfeit the metal tags issued under this Subdivision, or to take from any animal a tag legally placed upon it by its owner, or to place a tag so taken upon another animal.

**Subd. 7. Animal Pound.** Any animal found in the City without a license tag, running at large, or otherwise in violation of this Section, shall be placed in the Animal Pound, and an accurate record of the time of such placement shall be kept on each animal. Every animal so placed in the Animal Pound shall be held for redemption by the owner for at least five regular business days. A "regular business day" is one during which the Pound is open for business to the public for at least four hours between 8:00 o'clock A.M. and 7:00 o'clock P.M. Impoundment records shall be preserved for at least six months and shall show (1) the description of the animal by specie, breed, sex, approximate age, and other distinguishing traits; (2) the location at which the animal was seized; (3) the date of seizure; (4) the name and address of the person from whom any animal three months of age or over was received; and, (5) the name and address of the person to whom any animal three months of age or over was transferred. If unclaimed, such animal shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71. Provided, however, that if a tag affixed to the animal, or a statement by the animal's owner after seizure specifies that the animal should not be used for research, such animal shall not be made available to any such institution but may be destroyed after the expiration of the five-day period.

**Subd. 8. Notice of Impounding.** Upon the impounding of any animal, the owner shall be notified by the most expedient means, or if the owner is unknown, written notice shall be posted for five days at the City Hall describing the animal and the place and time of taking.

**Subd. 9. Release From Animal Pound.** Animals shall be released to their owners, as follows:

**A.** If such animal is owned by a resident of the City, after purchase of a license, if unlicensed, and payment of the impounding fee, maintenance, and immunization fee.

**B.** If such animal is owned by a person not a resident of the City, after immunization of any such animal for rabies, and payment of the impounding fee and maintenance.

**Subd. 10. Seizure by a Citizen.** It is lawful for any person to seize and impound an animal so found running at large and shall within six hours thereafter notify the Poundmaster of said seizure. It shall be the duty of the Poundmaster to place said animal in the City Pound. If the name of the owner of such animal so seized is known to the person who first takes such animal into custody, they shall inform the Poundmaster of the name of the owner, and the address if known.

**Subd. 11. Immobilization of Animals.** For the purpose of enforcement of this Section any peace officer, or person whose duty is animal control, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching an animal.

**Subd. 12. Other Unlawful Acts**. It is a petty misdemeanor for the owner of any animal to (1) fail to have the license tag issued by the City firmly attached to a collar worn at all times by the licensed animal, or (2) own a dangerous animal, or (3) interfere with any peace officer, or other City employee, in the performance of their duty to enforce this Section, or (4) fail to keep their dog from barking, howling or whining, or (5) fail to keep this cat from emitting loud or unusual noise.

**Subd. 13. Summary Destruction**. If an animal is diseased, vicious, dangerous, rabid or exposed to rabies and such animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the person attempting to impound, such animal may be destroyed in a humane manner.

**Subd. 14. Rabies Control - Generally.**

**A.** Every animal which bites a person shall be promptly reported to a peace officer or the Poundmaster and shall thereupon be securely quarantined at the direction of the peace officer or the Poundmaster for a period of 14 days, and shall not be released from such quarantine except by written permission of the City. In the discretion of the peace officer, such quarantine may be on the premises of the owner or at the veterinary hospital of owner's choice. If the animal is quarantined on the premises of the owner, the City shall have access to the animal at any reasonable time for study and observation of rabies symptoms. In the case of a stray animal or in the case of an animal whose ownership is not known, such quarantine shall be at the animal pound, or at the discretion of the peace officer the animal may be confined in a veterinary hospital designated by the peace officer.

**B.** The owners, upon demand made by the Poundmaster or by any other City employee empowered by the Council to enforce this Section, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this Section and upon compliance with licensing provisions set forth in this Section.

**C.** When an animal under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the City shall immediately send the head of such animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of such examination.

**D.** The City shall issue such proclamation and take such action when rabies is suspected or exists as is required by Minnesota Statutes.

**Subd. 15. Reports of Bite Cases.** It is the duty of every physician, or other practitioner, to report to a peace officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control. Whenever any animal has bitten a person, or there is good reason to believe that such animal has bitten a person, that fact shall be reported within 24 hours to the City, and thereafter the owner of such animal shall comply with the instructions of the officials of the City concerning the animal.

**Subd. 16. Responsibility of Veterinarians.** It is the duty of every licensed veterinarian to report to a peace officer their diagnosis of an animal observed by them as a rabies suspect.

**Subd. 17. Police Dogs, Seeing-Eye Dogs.** The provisions of this Section shall not apply to the ownership or use of seeing-eye dogs by blind persons, or dogs used in police activities of the City, such as canine corps or tracking dogs used by or with the permission of the Council.

**Subd. 18. Animals in Heat.** Except for controlled breeding purposes, every female animal in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female animal cannot come in contact with other animals.

**Subd. 19. Petition for Confinement.** Whenever four or more adult persons, having no relationship to each other, make written petition to the City requesting the confinement of an animal because of a present potential danger for children or other persons in the area, stating in their petition the basis for their concern, the City, after investigation, may order the immediate confinement of the animal or proceed to procure through a complaint a court order for permanent confinement of the animal or such other substantial disposition as the court may deem appropriate.

**SEC. 10.05. ANIMALS AND FOWL - KEEPING, TRANSPORTING, TREATMENT, HOUSING.**

**Subd. 1. Definitions.** As used in this Section, the following definitions shall apply.

**A. "Farm Animals"** - Cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, and guinea hens. (Amended, Ord. 131 Second Series, 7-21-15)

**B. "Animals"** - Includes farm animals and all other animals, reptiles and feathered birds or fowl except dogs, cats, gerbils, hamsters and caged household birds.

**Subd. 2. Keeping.** It is unlawful for any person to keep or harbor any animal, not in transit, except (1) farm animals kept in that portion of the City zoned for agricultural purposes (or on a parcel of land exceeding ten acres), or, (2) animals used in a parade for which a permit has been issued, or, (3) animals kept in a laboratory for scientific or experimental purposes, or, (4) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

**Subd. 3. Animals in Transit.** It is unlawful for any person to transport animals unless they are (1) confined within a vehicle, cage or other means of conveyance, or, (2) farm animals being transported in a portion of the City zoned for agricultural purposes, or, (3) restrained by means of bridles, halters, ropes or other means of individual restraint.

**Subd. 4. Treatment.** It is unlawful for any person to treat any animal as herein defined, or any other animal, in a cruel or inhumane manner.

**Subd. 5. Housing.** It is unlawful for any person to keep any animal as herein defined, or any other animal, in any structure infested by rodents, vermin, flies or insects, or inadequate for protection against the elements.

**Subd. 6. Trespasses.** It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, City park, cemetery, garden or lot without specific permission therefor from the owner. (7-1-90)

**SEC. 10.06. KEEPING OF HONEYBEES**

**Subd. 1. Definitions.** As used in this Section, the following definitions shall apply:

**A.** "Apiary" means the assembly of one (1) or more colonies of honey bees on a single lot.

**B.** "Apiary site" means the lot upon which an apiary is located.

**C.** "Beekeeper" means a person who: (i) owns or has charge of one (1) or more colonies of honey bees; and/or (ii) who owns or controls a lot on which a colony is located whether or not the person is intentionally keeping honey bees.

**D.** "Beekeeping equipment" means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

**E.** "Colony" means an aggregate of honey bees consisting principally of workers, but having, when perfect, one (1) queen and at times drones, brood, combs, and honey.

**F.** "Hive" means the receptacle inhabited by a colony.

**G.** "Honey bee" means all life stages of the common domestic honey bee, *apis mellifera* species.

**H.** "Lot" means one unit of a recorded plat, subdivision or registered land survey, or a recorded parcel described by metes and bounds.

**I.** "Nucleus colony" means a small quantity of honey bees with a queen housed in a smaller than usual hive box designed for a particular purpose, and containing no supers.

**J.** "Person" means any individual, partnership, corporation, company, limited liability company, other entity, or unincorporated association.

**K.** "Registrant" means any registered beekeeper and any person who has applied for approval of a beekeeping registration.

**L.** "Rooftop" means the uppermost section of a primary or accessory structure of at least one full story and at least twelve (12) feet in height. Areas including but not limited to decks, patios and balconies shall not be considered a rooftop.

**M.** "Swarming" means the process where a queen bee leaves a colony with a large group of worker bees.

**N.** "Undeveloped property" means: (i) any lot that is not improved with a structure that has or is required to have a certificate of occupancy; and (ii) all streets and highways.

**O.** "Unusual Aggressive Behavior" means any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs.

**Subd. 2. Registration.**

**A.** No beekeeper shall keep honey bees in the City without a current registration from the Zoning Administrator.

**B.** Each beekeeper shall apply for registration with the Zoning Administrator and receive approval of the registration prior to bringing any honey bees into the City.

**C.** Beekeepers operating within the City prior to the effective date of this Section shall have 30 days from the date this Section goes into effect to apply for a registration with the Zoning Administrator.

**D.** The application for registration shall be upon the form provided by the City. If a beekeeper relocates a hive or colony to a new apiary site the beekeeper shall apply for an updated registration, prior to the relocation, on the form provided by the City. All information required by the forms shall be answered fully and completely by the beekeeper.

**E.** The City beekeeping registration shall be valid until December 31 of each calendar year and shall be renewed by the registrant prior to expiration each year by submitting a renewal form to the Zoning Administrator on the form provided by the City. A person no longer keeping honey bees in the City shall notify the Zoning Administrator within thirty (30) days.

**F.** Upon the initial registration, annual renewal, and any updated registration, each beekeeper shall allow the Zoning Administrator the right to inspect any apiary and apiary site for the purpose of ensuring compliance with this Section.

**G.** Upon receipt of an application for initial or updated registration the City shall send notice to all owners of lots within two-hundred (200) feet of any lot line of the apiary site(s) identified on the application no less than fourteen (14) days prior to a decision to approve or deny the registration. Any person may submit written comments regarding the application to the Zoning Administrator. Within thirty (30) days of an application the Zoning Administrator shall approve or deny the registration.

**Subd. 3. Required Conditions.**

**A.** Honey bee colonies shall be kept in hives with removable frames, which frames shall be kept in sound and usable condition.

**B.** Each colony on the apiary site shall be provided with a convenient source of water located on the apiary site. Every effort should be made to ensure that the water source is free of chemicals that are typically found in tap water, such as chlorine and fluoride.

**C.** Materials from a hive or colony which might encourage the presence of honey bees, such as wax comb, shall be promptly disposed of in a sealed container or placed within a building or other bee-proof enclosure.

**D.** For each colony permitted to be maintained under this Section, there may also be maintained upon the same apiary site, one nucleus colony in a hive structure not to exceed one standard 9-5/8 inch depth 10-frame hive body, with no supers.

**E.** Beekeeping equipment shall be maintained in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism, and occupancy by swarming honey bees.

**F.** Hives shall be continuously managed to provide adequate living space for their resident honey bees in order to prevent swarming.

**G.** In any instance in which a colony exhibits unusual aggressive behavior, it shall be the duty of the beekeeper to promptly re-queen the colony. Whenever possible, queens shall be selected from European stock bred for gentleness and non-swarming characteristics.

**H.** Fruit trees and other flowering trees which are located on an apiary site shall not be sprayed, while in full bloom, with any substance which is injurious to honey bees.

**Subd. 4. Colony Location.**

**A.** Excluding lots that are zoned Agricultural and are ten (10) acres or more in size, no hive shall occupy any front yard. For the purposes of this Section, a corner lot shall be considered to have two (2) front yards.

**B.** In no instance shall any part of a hive be located within ten (10) feet of any lot line.

**C.** In no instance shall any part of a hive be located within ten (10) feet of any dwelling unit in any zoning district.

**D.** Except as otherwise provided in this Section, in each instance where any part of a hive is kept within twenty-five (25) feet of a lot line of the apiary site, the beekeeper shall establish and maintain along said lot line screening consisting of a flyway barrier of at least six (6) feet in height.

1. The flyway barrier may consist of a wall, fence, dense vegetation, or a combination thereof, such that honey bees will fly over rather than through the material to reach the colony.

2. If a flyway barrier of dense vegetation is used, the initial planting may be four (4) feet in height, so long as the vegetation reaches a height of six (6) feet or higher within two (2) years of installation.

3. The flyway barrier must continue parallel to the lot line of the apiary site for ten (10) feet in both directions from the hive, or contain the hive or hives in an enclosure at least six (6) feet in height.

4. A flyway barrier is not required if the hive is located on a rooftop or if the lot abutting the lot line of the apiary site where the flyway barrier would be required is:

(a) undeveloped property, except that the sides of the lot abutting developed property shall comply with the flyaway barrier requirement; or

(b) zoned Agricultural and is ten (10) acres or more in size.

**Subd. 5. Colony Density.**

**A.** Every lot within the City shall be limited to the following number of colonies based on the size of the lot:

1. ½ acre or smaller = 2 colonies

2. more than ½ acre to 1 acre = 4 colonies

3. more than 1 acre to 5 acres = 8 colonies

4. more than 5 acres = up to 2 colonies per acre

**B.** If any person removes honey bees from locations where they are not desired, that person shall not be considered in violation of the restriction in this Subdivision 5, if the person temporarily houses the honey bees on the apiary site of a beekeeper registered under this Section for no more than thirty (30) days and remains at all times in compliance with the other provisions of this Section.

**Subd. 6. Inspection.**

**A.** Upon prior notice to the owner of the apiary site, the Zoning Administrator or their designee shall have the right to inspect any apiary for the purpose of ensuring compliance with this Section.

**B.** It shall be deemed a violation of this Section for any person to resist, impede or hinder the Zoning Administrator or their designee in the performance of their duties in inspecting any apiary and apiary site.

**Subd. 7. Denial, Revocation or Suspension.**

**A.** Beekeeping registrations under the provisions of this Section may be denied, revoked or suspended by the Zoning Administrator or designee after notice and the right to request a hearing, for any of the following causes:

1. Fraud, misrepresentation or false statements on any application or registration form or during the course of the registered activity.

2. The keeping of honey bees in an unlawful manner or a manner so as to constitute a breach of peace, or to constitute a menace to the health, safety, or general welfare of the public.

3. Any violation of this Section.

**B.** Notice of the denial, revocation, or suspension, shall be in writing, specifically setting forth the grounds for denial, revocation, or suspension and the registrant's right to request a hearing before the Planning and Zoning Commission. Such notice shall be mailed to the registrant at the address listed on the application. A registrant may request a hearing by filing a written request for hearing addressed to the City Clerk within fifteen (15) days of the date of the notice. A hearing shall be held within thirty (30) days of the request. The City shall notify the registrant in writing of the time, date and location of the hearing at least five (5) days prior to the hearing. Within fifteen (15) days after the hearing the Planning and Zoning Commission shall issue a written decision and that decision shall be final. A copy of the decision shall be mailed to the registrant. If the registrant fails to request a hearing within fifteen (15) days of the date of the notice, the denial, suspension, or revocation shall automatically be deemed final. A revocation or suspension of a registration shall not be effective until issuance of a decision by the Planning and Zoning Commission. No appeal is allowed to the City Council.

**Subd. 8. Appeal.**

**A.** A person may object to a registration at any time within thirty (30) days of approval of an initial or updated registration by addressing to the City Clerk a written request for a hearing before the Planning and Zoning Commission. The hearing shall be held within thirty (30) days of the request. The City shall notify in writing the person requesting the hearing and the person whose registration is objected to, date and location of the hearing at least five (5) days prior to the hearing. Within fifteen (15) days after the hearing the Planning and Zoning Commission shall issue a written decision and that decision shall be final. A copy of the decision shall be mailed to the person who requested the hearing and the person whose registration was objected to. No appeal is allowed to the City Council.

(Section 10.06 Added, Ord. 131 Second Series, 7-21-15)

**(Sections 10.07 through 10.19, inclusive, reserved for future expansion.)**

**SEC. 10.20**. **SHADE TREE DISEASE CONTROL AND PREVENTION**.

**Subd. 1. Policy and Purpose.** The City has determined that the health of oak and elm trees is threatened by fatal diseases known as oak wilt and Dutch elm disease. It has further determined that the loss of oak and elm trees located on public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of these diseases, and provide for the removal of dead or diseased trees, as nuisances.

**Subd. 2. City Forester.**

**A. Position Established**. The Council shall designate a City Forester who shall thereafter qualify.

**B. Duties of City Forester.** It is the duty of the City Forester to coordinate under the direction of the Council, through the City Administrator, all activities of the City relating to the control and prevention of tree diseases. The City Forester shall recommend to the Council the details of a program for the control of tree diseases and shall perform the duties incident to such a program adopted by the Council.

**Subd. 3. State Regulations Adopted by Reference.** Sections 1.0109 through 1.0111 of 3 Minnesota Code of Agency Rules, Department of Agriculture, Shade Tree Program (1978 Edition) together with amendments thereof to date, are hereby adopted by reference and made a part of this Section as if set out herein in full, except as otherwise hereinafter provided. A copy of said Agency Rules herewith incorporated is on file in the office of the City Clerk. (Please refer to the following information as related to above Minnesota Code of Agency Rules.)

**SHADE TREE PROGRAM - Chapter 4 3 MCAR §§ 1.0109 through 1.0113**

**A. Purpose and authority**. The rules contained herein are prescribed by the Commissioner pursuant to Minnesota Statutes 18.023, as amended, to implement a program to control Dutch elm disease and oak wilt by local units of government and to include procedures and criteria for three grant-in-aid programs. The provisions of these rules are in addition to those set forth in the act itself.

**Subd. 4. Stockpiling Regulations.**

**A. Stockpiling Prohibited.** Stockpiling and storage of elm logs with bark intact shall be prohibited during the period from April 2 through September 14 of any year.

**B. Limited Stockpiling Permitted**. The stockpiling of bark bearing elm wood shall be permitted during the period from September 15 through April 1 of any given year. Any such wood not utilized by April 1 of any year must then be removed and disposed of as provided by this Section and the regulations incorporated herein.

**SEC. 10.21. MAINTENANCE OF PRIVATE PROPERTY.**

**Subd. 1.** It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than 18 inches; to remove all public health or safety hazards therefrom; to instill or repair water service lines thereon; and to treat or remove insect-infested or diseased trees thereon.

**Subd. 2.** If any such owner or occupant fails to assume the primary responsibility described in Subdivision 1 of this Section, and after notice given by the City Administrator has not within seven days of such notice complied, the City may cause such work to be done and the expenses thus incurred shall be a lien upon such real estate. The City Administrator shall certify to the County Auditor a statement of the amount of the cost incurred by the City. Such amount together with interest shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes.

**SEC. 10.22. OBSTRUCTIONS TO VISIBILITY**. It is unlawful to erect or maintain any structure or vegetation within a radius of 20 feet from the corner created by the projections of the curb lines at intersecting streets. Trees are not obstructions to vision if branches are trimmed to the trunks and to a height of eight feet above the curb level or to a height of 14 feet above the surface of any street. Nor shall traffic control signs or signals be considered obstructions.

**SEC. 10.23. MINNESOTA UNIFORM FIRE CODE.**

**Subd. 1. Adoption**. The 1982 Edition of the Minnesota Uniform Fire Code is hereby adopted as though set forth verbatim herein. One copy of said Code shall be marked CITY OF PINE ISLAND - OFFICIAL COPY and kept on file in the office of the City Administrator and open to inspection and use by the public.

**Subd. 2. Storage of Flammable and Explosives Material**. Present installations for the purpose of storage of flammable liquid, liquified petroleum gas and explosives and blasting agents may continue in the Agricultural District. Provided, however, that such installation shall not be expanded nor shall new installations for such purpose be permitted without a special permit from the Council. Prior to issuance of any such permit, an application therefor shall be investigated by the Chief of the Fire Department, and a hearing held thereon before the Council. (7-1-90)

**(Sections 10.24 through 10.29, inclusive, reserved for future expansion.)**

**SEC. 10.30. CURFEW.**

**Subd. 1. Name**. This Section shall be known and cited as the City of Pine Island Curfew Section.

**Subd. 2. Purpose**. The purpose of this Section is to:

**A.** Protect minors and other citizens, residents and visitors of the City of Pine Island from the dangers of crimes that occur on sidewalks, streets, and public places during the late night and early morning hours;

**B**. Decrease the amount of criminal activity engaged in by minors;

**C**. Promote and enhance parental control over minors;

**D**. Adopt and implement policies relating to minors that would minimize impacts on minors engaging in and traveling to or from a lawful activity or event; and

**E**. Preserve the public safety and to reduce acts of violence by or against minors that might otherwise occur in Pine Island at rates beyond the capacity of the police to assure public safety without the aid of a minor curfew.

**Subd. 3. Definition**. As used in this Section, "minor" means a person under the age of 18 years. The term does not include persons under the age of 18 who are married or have been legally emancipated.

**Subd. 4. Regulations.**

**A**. On Sunday through Thursday, it is a petty misdemeanor for any minor person to be or loiter upon the streets or public places between the hours of 11:00 o'clock P.M. and 5:00 A.M. of the day following. On Friday and Saturday, it is a petty misdemeanor for any minor person to be or loiter upon the streets or public places between the hours of 12:00 o'clock P.M. (midnight) and 5:00 A.M. of the day following.

**B**. It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor to allow or permit such minor person to be or loiter upon the streets or public places in violation of this Section unless such minor is accompanied by a parent, guardian, or other person having the legal care or custody of such minor.

**C**. It is unlawful for any person operating, or in charge of, any place of amusement, entertainment or refreshment, or other place of business, to allow or permit any minor to be or loiter in such place in violation of this Section unless such minor is accompanied by a person of lawful age having such minor in charge.

**Subd. 5. Exceptions**.

**A**. It shall not be a violation of this City of Pine Island Curfew Ordinance that the minor was:

**1.** Accompanied by the minor's parent or guardian;
**2**. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
**3**. In a motor vehicle involved in interstate travel;

**4.** Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
**5**. Involved in an emergency;

**6**. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

**7.** Attending an official school, religious, recreational, or other activity supervised by adults or sponsored by the City of Pine Island, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from such activity, without any detour or stop;

**8.** Lawfully present within or upon an establishment or going to or returning home from such establishment without any detour or stop;

**9**. Going to or returning from the residence of another without any detour or stop; or

**10.** Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

**B.** It shall not be a violation of this City of Pine Island Curfew Ordinance when any parent or guardian, unable to control the whereabouts and activities of a minor in their care, custody, or control, has contacted the City of Pine Island Police Department and reported such minor as possibly appearing in locations and at times that would violate this Chapter.

**Subd. 6. Savings Clause**. The provisions of this ordinance are hereby declared to be separable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any other portion of such Section.

**SEC. 10.31**. **DISORDERLY CONDUCT**. It is a petty misdemeanor for any person, in a public or private place, knowing, or having reasonable grounds to know, that it will, or will tend to, alarm, anger or disturb others or provoke any assault or breach of the peace, to do the following: (1) engage in brawling or fighting; or, (2) disturb an assembly or meeting, not unlawful in its character; or, (3) engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others; or, (4) willfully and lewdly expose their person or the private parts thereof, or procure another to so expose themselves; and any open or gross lewdness or lascivious behavior, or any act of public indecency; or, (5) whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when said waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter such waters without being garbed in a bathing suit sufficient to cover their person and equal to the standards generally adopted and accepted by the public; or, (6) urinate or defecate in a place other than (a) if on public property then in a plumbing fixture provided for that purpose, or (b) if on the private property of another then in a plumbing fixture provided for that purpose, or (c) if on private property not owned or controlled by another, then within a building; or, (7) cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn; or, (8) use a sound amplifier upon streets and public property without prior written permission from the City; or, (9) use a flash or spotlight in a manner so as to annoy or endanger others; or,

(10) cause defacement, destruction, or otherwise damage to any premises or any property located thereon; or, (11) strew, scatter, litter, throw, dispose of or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for such purpose; or, (12) enter any motor vehicle of another without the consent of the owner or operator; or, (13) fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of their official duty, nor shall it include the spouse, children, employee or tenant of such owner or occupier.

**SEC. 10.32. DANGEROUS TRESPASSES AND OTHER ACTS**. It is unlawful for any person to: (1) smoke in the presence of explosives, or inflammable materials, or in a building, or area, in which "No Smoking" notices have been prominently posted; or, (2) interfere with or obstruct the prevention or extinguishing of any fire, or disobey the lawful orders of a law enforcement officer or fireman present at the fire; or, (3) show a false light or signal or interfere with any light, signal or sign controlling or guiding traffic upon a highway, railway track, or navigable water; or, (4) place an obstruction upon a railroad track; or, (5) expose another or their property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest or coerce; or, (6) trespass or permit animals under their control to trespass upon a railroad track; or, (7) permit domestic animals or fowls under their control to go upon the lands of another within the City; or, (8) interfere unlawfully with any monument, sign or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or a tract of land; or, (9) trespass upon the premises of another, and without claim of right refuse to depart therefrom on demand of the lawful possessor; or, (10) occupy or enter the dwelling of another, without claim of right, or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation; or, (11) enter the premises of another with intent to take or injure any fruit, fruit trees or vegetables growing thereon without the permission of the owner or occupant; or, (12) without the permission of the owner tamper with or get into or upon a motor vehicle, or ride in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner. (7-1-90)

**SEC. 10.33. OUTDOOR WOOD-BURNING FURNACES.** (Added, Ord. 94, Second Series, 12-16-08)

**Subd. 1. Purpose.** It is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor wood burning furnaces, creates noxious and hazardous smoke, soot, fumes, odors and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. It is the intention of the City of Pine Island to establish and impose a ban on the installation, construction, operation, use, and maintenance of outdoor wood burning furnaces within the limits of the City for the purpose of securing and promoting the public health, comfort, convenience, safety, and welfare of the City and its inhabitants.

**Subd. 2. Outdoor Wood-Burning Furnace Defined.** A fuel burning device designed to burn primarily wood by hand-firing that is not located inside structures ordinarily occupied by humans.

**Subd. 3. Prohibition.** No person shall install an outdoor wood-fired boiler as defined in this Section within the City of Pine Island.

**Subd. 4. Enforcement/Penalty.** Any person found violating this Section shall be guilty of a misdemeanor. The City's building official or police department may enforce the provisions of this Section.

**(Sections 10.34 through 10.39, inclusive, reserved for future expansion.)**

**SEC. 10.40. RULES AND REGULATIONS GOVERNING PUBLIC PARKS.**

**Subd. 1. Adoption.** The Council may by resolution adopt, and from time to time amend, rules and regulations governing public parks. It is unlawful to violate such rules and regulations as are conspicuously sign-posted in such parks.

**Subd. 2. Other Traffic, Rules and Regulations.** The Council may, by resolution, adopt additional restrictions on traffic, together with rules and regulations for the use of public parks and sign-post the same upon such parks, playgrounds, recreational areas or athletic fields as they apply, and it is unlawful for any person to violate the same when so sign-posted.

**SEC. 10.41. OBSTRUCTIONS ON PUBLIC PROPERTY.**

**Subd. 1. Obstructions.** It is unlawful for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any public property without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

**Subd. 2. Fires.** It is unlawful for any person to build or maintain a fire upon public property.

**Subd. 3. Dumping on Public Property.** It is unlawful for any person to throw or deposit on public property any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemicals thereon. It is a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the Council.

**Subd. 4. Signs and Other Structures.** It is unlawful for any person to place or maintain a permanent sign, advertisement, or other structure on public property without first having obtained a written permit from the Council. A sign in place for more than ten days shall be considered a permanent sign.

**Subd. 5. Snow or Ice on Public Property.** It is unlawful for any person not acting under a contract with the City to dump snow or ice on public property.

**Subd. 6. Continuing Violation.** Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

**Subd. 7. Condition.** Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

## SEC. 10.42. HAZARDOUS CONDITIONS.

### Subd. 1. Preamble.

**A. Private Property**. The Council finds that accumulation on private property of unlicensed, unregistered or inoperable motor vehicles, household furniture, furnishings or appliances, or parts or components thereof, or metal, wood, glass, paper, rubber, concrete, or other material, whether organic or inorganic, can facilitate the growth or spread of noxious weeds, the nesting and breeding of rodents, insects, and harmful bacteria, and be a threat of fire. The Council also finds that unless such accumulation is stored in a lawfully operated junk yard, housed within a lawfully erected building, or in a container designed for storage of such material for short periods of time, and the contents disposed of on a regular schedule, under provisions of the City Code, it is a source of filth, cause of sickness, and an immediate danger to the health, safety and welfare of persons and property in the City. The Council finds that if such unauthorized, unwholesome and dangerous accumulation is permitted to continue to pose such a threat it is a hazardous condition and a nuisance, must be abated, and that this Section is adopted to protect the residents of the City and their property and, in addition, to protect the rights of persons who may be found in violation of its provisions. "Accumulation" as that term is used in this Subparagraph A, means prohibited items in any number or amount.

**B. Business Premises**. The Council finds that accumulation upon premises to which the public has access or may be exposed of food particles or other material causing discomfort to patrons, or disrepair of seating, floor covering, plumbing, heating, or electrical facilities, or failure to maintain a reasonable standard of cleanliness and absence of noxious odors, can facilitate the nesting and breeding of rodents, insects, and harmful bacteria and is a source of filth, cause of sickness, and an immediate danger to the health, safety and welfare of persons and property in the City. The Council finds that if such unauthorized, unwholesome and dangerous accumulation is permitted to continue to pose such a threat it is a hazardous condition and a nuisance, must be abated, and that this Section is adopted to protect the residents of the City and their property and, in addition, to protect the rights of persons who may be harmed in violation of its provisions. "Accumulation" as that term is used in this Subparagraph B, means prohibited items or conditions in any number or amount.

**Subd. 2. Unlawful Acts.**

**A.** It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, household furniture, furnishings or appliances, or parts or components thereof, farm implements, or scrap metal, dead trees or parts thereof, glass, paper, rubber, concrete, sawdust, or other material, whether organic or inorganic, on private property, unless such accumulation is stored within a lawfully operated junk yard, housed within a lawfully erected building, or in a container permitted, and the contents disposed of, under other provisions of the City Code.

**B.** It is unlawful to permit, on premises to which the public has access or may be exposed, any accumulation of food particles or other material causing discomfort to patrons, or disrepair of seating, floor covering, plumbing, heating or electrical facilities, or failure to maintain a reasonable standard of cleanliness and absence of noxious odors.

**Subd. 3**. **Duties of City Officers.** The City Administrator, street superintendent, law enforcement personnel, or other designated official shall enforce the provisions of this Section relating to nuisances affecting public safety. The Police or Sheriff Departments shall enforce provisions relating to other nuisances and shall assist the other designated officers in issues affecting public safety. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

**Subd. 4 Abatement/Enforcement Procedures.**

**A. Notice**. Written notice of violation; notice of time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this Subdivision.

**1. Notice of Violation**. Written notice of violation shall be served by the officer charged with enforcement on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

**2. Notice of Council Hearing**. Written notice of any City Council hearing to determine or abate nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of Council hearing, notice of Council hearing shall be served by posting it on the premises.

**3. Notice of City Council order**. Except for those cases determined by the City to require summary enforcement, written notice of any City Council order shall be made as provided in Minnesota Statutes, Section 463.17 (Hazardous and Substandard Building Act).

**4. Notice of motion for summary enforcement**. Written notice of any motion for summary enforcement shall be made as provided for in Minnesota Statutes, Section 463.17 (Hazardous and Substandard Building Act).

**B. Procedure.** Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that such nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the enforcing officer shall report forthwith to the Council. Thereafter, the Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the Council the City may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

**C. Emergency Procedure; Summary Enforcement.** In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in A and B above will permit a continuing nuisance to unreasonably endanger public health, safety, welfare or to human life, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer charged with enforcement shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety, welfare or human life. The enforcement officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety, welfare or human life will be unreasonably endangered by delay in abatement required to complete the procedure set forth in Subdivision 1 above, and may order that such nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

**Subd. 5 Recovery of Cost.**

**A. Personal Liability.** The owner of the 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.

**B. 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, the Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minnesota Statutes, Section 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute 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.

**Subd. 6. Penalty.** Any person convicted of violating any provision of this Section is guilty of a misdemeanor and shall be punished by a fine not to exceed $1,000 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case.

**SEC. 10.43. ABANDONING A MOTOR VEHICLE.** It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a "motor vehicle" is as defined in Minnesota Statutes, Chapter 169.

**SEC. 10.44. PUBLIC NUISANCE.** It is unlawful for any person to maintain a public nuisance by their act or failure to perform a legal duty, and for purposes of this Section, a public nuisance shall be defined as any of the following: (1) maintaining or permitting 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) interfering with, obstructing or rendering dangerous for passage, any street, public right-of-way, or waters used by the public; or, (3) any other act or omission declared by law to be a public nuisance. (7-1-90)

**SEC. 10.45. ADULT USE BUSINESSES.**

**Subd. 1. Definition.** "Adult Uses" means a business emphasizing the display or description through live models, magazines or movies of human and/or animal sexual activities, genitalia or pubic areas; or, the human buttocks or human female breast when not dressed or covered with opaque materials.

**A. "Adult Uses-Accessory"** means a business having during the preceding 180 days, 10% or less of stock or floor area devoted to, or 20% or less of receipts derived from, adult movie rentals or magazine sales.

**B. "Adult Uses-Principal"** means a business having during the preceding 180 days, more than 10% of stock or floor area allocated to, or more than 20% of gross receipts derived from, any adult use.

**Subd. 2. Findings.** The Council has considered neighborhood impact studies from other cities, assessed the City's general zoning plan and finds that adult businesses produce negative "secondary effects" such as increased crime, lower property values, and general neighborhood blight. Under the police powers of the City the Council finds it necessary to adopt legislation to regulate and limit adult use businesses to minimize negative "secondary effects" for the protection of the community and the public.

**Subd. 3. Business Location; Limitations.**

**A.** An adult uses--principal business must be located at least 1,320 feet from residentially zoned property, day-care centers, public and private schools, pre-schools, parks, licensed liquor establishments, athletic clubs or facilities, synagogues and churches.

**B.** An adult uses-accessory business must be located at least 660 feet from residentially zoned property, day-care centers, public and private schools, pre-schools, parks, licensed liquor establishments, athletic clubs or facilities, synagogues and churches. (Ord. 39, Second Series, 6-25-98)

**SEC. 10.46. SMOKING POLICY IN MUNICIPALLY-OWNED BUILDINGS.**

**Subd. 1. Purpose.** The purpose of this Section is to protect the public health, comfort, and environment, and to promote a safe and healthy environment for municipal employees and citizens who use municipally-owned buildings; and to provide an environment that is free from the effects of tobacco smoke and its associated health risks.

**Subd. 2. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**A. "Public Place"** means an enclosed indoor area owned by the City and used by the general public or serving as a place of work; and specifically includes the Municipal Library, City Hall, Public Works Garage, Swimming Pool, Fire Hall, Wastewater Treatment Plant, and Municipal Liquor Store.

**B. "Smoking"** means the lighting, holding, or carrying of, or emitting or exhaling the smoke of a pipe, cigar, cigarette, or any other lighted smoking equipment of any kind.

**Subd. 3. Prohibition.** Smoking is unlawful in the following public places:

**A.** City Hall.

**B.** Public Library.

**C**. Municipal Swimming Pool, including the one within the fences around the swimming pool.

**D**. Additionally, the Municipal Fire Hall is hereby designated a "No Smoking" area on the days of any General or Special Election, whether State, Federal or Local, from the period from one-half hour before the scheduled arrival of the election judges until one-half hour after the last election judge has vacated the premises.

**E.** Smoking in the Public Works Garage, Fire Hall, the Wastewater Treatment Plant shall be in such areas and at such times, as may be designated by the respective department heads. It shall be the responsibility of the Manager of the Municipal Liquor Store to determine the hours and designate Smoking and No Smoking areas.

**Subd. 4. Signage.** The respective department heads of the Municipal Liquor Store, Public Works Garage, Municipal Fire Hall, and Wastewater Treatment Plan shall post, cause to be posted and prominently displayed, and shall maintain, "No Smoking" signs in conspicuous locations within such areas where smoking is prohibited. Such signs shall clearly and conspicuously recite the phrase "No Smoking" and/or use the international No Smoking symbol and shall cite Section 10.46 of the City Code. Signs shall be of sufficient number and prominent location to convey the message clearly and legibly. The City Clerk or Clerk's designee, shall post or cause to be posted, the aforedescribed signs in the Public Library, City Hall, and Swimming Pool.

**Subd. 5. Violations and Penalty**. Any person who violates this Section by smoking in a No Smoking area is guilty of a petty misdemeanor, shall not be entitled to a jury trial, and upon conviction thereof is not subject to imprisonment but shall be punishable by a fine.

**CODIFIER'S NOTE**: Section 10.46 was originally adopted as new Chapter 13 of the City Code, but upon consideration, a decision was made to include it in Chapter 10. (Ord. 17, Second Series, 3-25-93)

**SEC. 10.47. SOCIAL HOST.**

**Subd. 1. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**A. Alcohol.** "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

**B. Alcoholic Beverages**. "Alcoholic beverages" means alcohol, spirits, liquor, beer, and which contains one-half of one percent or more alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combining with other substances.

**C. Event or gathering**. "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or activity.

**D. Host**. "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

**E. Parent**. "Parent" means any person having legal custody of a juvenile as natural, adoptive, or step-parent; as legal guardian; or as a person to whom legal custody has been given by order of the court.

**F. Person**. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

**G. Residence or Premises**. "Residence" or "premises" means any home, yard, curtilage, farm, field, land, apartment, condominium, hotel or motel rooms, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

**H. Underage person**. "Underage person" is any individual under twenty-one (21) years of age.

**Subd. 2. Prohibited Acts.** It is unlawful for any person(s) to host an event or gathering at any residence, premises, or other private or public property where alcohol or alcoholic beverages are present, when the person knows or reasonably should know that an underage person will or does: (1) consume any alcohol or alcoholic beverage; or (2) possess any alcohol or alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

**Subd. 3. Violation.** A person is criminally responsible for violating this section if the person commits a prohibited act, or intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a prohibited act.

**Subd. 4. Exceptions.**

**A.** This section does not apply to conduct solely between an underage person and his or her parents while present in the parents' household.

**B.** This section does not apply to legally protected religious observances.

**C.** This section does not apply to liquor licensees, municipal liquor stores, or bottle club permit holders who are subject to Minn. Stat. § 340A.503, Subd. 1(a)(1).

**D.** This section does not apply to underage persons who are lawfully in possession of alcohol or alcoholic beverages during the course and scope of their employment.

**Subd. 5. Enforcement.** This section is enforceable by any certified peace officer.

**Subd. 6. Severability.** If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionally shall not affect the validity of the remaining portions of this law, which shall continue in full force and effect.

**Subd. 7. Penalty.** Anyone who violates this section shall be guilty of a misdemeanor.

(Section 10.47 Added, Ord. No. 128, Second Series, 2-17-15)

## SEC. 10.48 PREDATORY OFFENDERS RESIDENCY – PROHIBITED CONDUCT

**Subd. 1. Finding and Intent.** Repeat predatory offenders present an extreme threat to the public safety. Predatory offenders are likely to use physical violence and to repeat their offenses, and most predatory offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of predatory offender victimization to society at large, while incalculable, unmistakably steep.

It is the intent of this Section to serve the city's compelling interest to promote, protect, and improve the health, safety, and general welfare of Pine Island citizens by creating areas around locations where children are known to regularly congregate in concentrated numbers wherein certain predatory offenders are prohibited from establishing temporary or permanent residence.

**Subd. 2. Definitions.** The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them in this subdivision, except where the context clearly indicates a different meaning:

**A.** "Designated predatory offender" means any person who has been categorized as a Level III predatory offender under Minnesota Statutes Section 244.052, a successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of re-offense;

**B.** "Permanent residence" means a place where a person abides, lodges, or resides for 14 or more consecutive days;

**C.** "Temporary residence" means a place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence;

**D.** "School" means a public or nonpublic elementary or second school;

**E.** "Licensed child care center" means a group child care center currently licensed by the applicable County or State of Minnesota;

**F.** "Public playground" means a city-owned, improved park or other outdoor area designed, equipped, and set aside primarily for children's play.

**Subd. 3. Prohibited Location of Residence**

**A.** It is unlawful for any designated predatory offender to establish a permanent or temporary residence within 2,000 feet of any school, licensed child-care facility, public playground, or any other place where children are commonly known to regularly congregate.

**B. Measurement of distance.** For purposes of determining the minimum distance separation required by this Section, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence of the designated predatory offender to the nearest outer property line of the protected facility in subdivision 2.

**C. Penalties**. Any person who violates this Section shall be guilty of a misdemeanor and shall be punished by a fine of an amount not exceeding $1,000.00 and/or imprisoned for a period not to exceed 90 days. Each day that a person maintains a permanent or temporary residence in violation of this Code shall constitute a separate offense.

**Subd. 4 Exceptions**

**A.** A designated predatory offender residing within a prohibited area as described in subdivision 3 does not commit a violation of this Section if any of the following apply:

**1.** The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes Sections 243.166 and 243.167 or a successor statute, prior to June 1, 2015;

**2.** The person was a minor when they committed the offense and they were convicted as an adult;

**3.** The person is a minor;

**4.** The school, licensed child care center, or public playground within 2,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes Sections 243.166 and 243.167, or a successor statute;

**5.** The residence is also the primary residence of the person's parents, grandparents, siblings, or spouse; or

**6.** The residence is a property purchased, leased, or contracted with and licensed by the Minnesota department of corrections prior to June 1, 2015.

(Section 10.48 Added, Ord. No. 130 Second Series, 5-19-15)

**(Sections 10.49 through 10.98, inclusive, reserved for future expansion.)**

**SEC. 10.99. VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when they perform an act thereby prohibited or declared unlawful, or fail to act when such failure is thereby prohibited or declared unlawful, or perform an act prohibited or declared unlawful or fail to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. (7-1-90)

**CHAPTER 11 LAND USE REGULATION (ZONING)**
(Repealed, Ord. No. 109 Second Series)
(Added, Ord. No. 109 Second Series)

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## SEC. 11.01. TITLE AND APPLICATION

### Subd. 1. Title.

This Chapter shall be known as the **PINE ISLAND ZONING ORDINANCE** except as referred to herein, where it shall be known as "this Chapter".

### Subd. 2. Intent and Purpose.

The intent of this Chapter is to protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. More specifically, it is the purpose of this Chapter to:

**A.** Be applicable to all lands and waters within the corporate limits of Pine Island, Minnesota.

**B.** Guide the orderly development and redevelopment of the City, promote high quality urban design, and regulate land uses and the location and use of structures for residential, commercial, and other purposes consistent with the goals and policies of the City's Comprehensive Plan.

**C.** Assist in providing a physical environment that provides for the housing, employment, business, service, recreational, social, cultural, educational and entertainment needs of the City and maintains and enhances a high quality of life for its residents.

**D.** Provide a diversity of areas characterized by differing land use activities, scale and intensity, while maintaining neighborhood and community identity, and quality development by maintaining a balance between residential and non-residential land uses and compatibility of different land uses.

**E.** Respect the City’s environmental setting and constraints, and meet the needs of the City for adequate public services and infrastructure.

**F.** Ensure the maintenance of property within the City by requiring each owner, occupant, or other person in charge of any property to keep it in good repair and in compliance with the provisions of this Chapter.

**G.** Maintain and enhance the City of Pine Island’s town character with a unique, distinctive and secure environment for the City’s residents and businesses.

**H.** To provide adequate light, air and convenience of access to property.

**I.** To prevent congestion in the public right-of-way and to prevent overcrowding of land and undue concentration of structures by regulating land, building, yards and density of population.

**J.** To provide for administration of this chapter and to provide for amendments and prescribe penalties for violation of such regulations.

**K.** To define powers and duties of the City staff, the Board of Zoning Adjustment, the Planning Commission and the City Council in relation to this Chapter.

**Subd. 3. Standard Requirements.**

**A.** Where the conditions imposed by any provision of this Chapter are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirements shall prevail.

**B.** 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.

**C.** All references within this Chapter to other City, county, state, and federal regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility by the City for enforcement of county, state, or federal regulations. Furthermore, all references to other City, county, state, and federal regulations within this Chapter are intended to refer to the most current version and citation for those regulations. If such references are invalid due to repeal or renumbering, the new regulations intended to replace those cited, regardless of the citation, shall govern unless otherwise specified.

**D.** No structure shall be erected, converted, enlarged, reconstructed, altered or moved, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Chapter.

**E.** 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.

**F.** In their application, these regulations shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided that where the regulations of this Chapter are more restrictive, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Chapter shall be controlling.

**G.** No error in a resolution approving a permit, or an omission of a requirement of this Chapter from a resolution or other approval, shall affect the applicant's obligation to comply with all applicable provisions of this Chapter.

**H.** No part of the yard or open space required for a given building shall be included as a part of the yard or other space required for another building, and no lot shall be used for more than one principal building unless otherwise provided for herein.

**I.** Each new occupied building shall be required to connect to the City sewage disposal system where it is available. In any district where City sewage service is not available, the private sewage disposal system shall meet the standards of the Minnesota Pollution Control Agency (6MCAR #4.8040).

**Subd. 4. Relation to the City's Comprehensive Plan.**

It is the policy of the City, that the City's adopted Comprehensive Plan shall serve as the basis upon which land use and development shall be regulated and that the enforcement, amendment, and administration of this Chapter be accomplished with due consideration of the recommendations contained in the City's Comprehensive Plan as developed and amended from time to time by the City. The City recognizes the Comprehensive Plan as the policy for responsibility to regulate land use and development in accordance with the policies and purpose herein set forth.

**Subd. 5. Existing Lots.**

A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the County Recorder or Registrar of Titles, on or before the effective date of this Chapter may be used for residential dwelling purposes provided the area and width thereof are within 60% of the minimum requirements of this Chapter; and provided it can be demonstrated that safe and adequate sewage treatment systems can be installed to serve such permanent dwelling.

**Subd. 6. Prior Conditional Uses.**

Any established use or building legally existing prior to June 21, 2011 and which is now classified as a conditional use may be continued in like fashion and activity and shall automatically be considered as having received conditional use permit approval. Any change to such a use, or any other subsequently approved conditional use shall, however, require a new conditional use permit be processed according to this Chapter.

**Subd. 7. Building Compliance.**

Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all requirements of this Chapter have been fully met.

**Subd. 8. Monuments.**

For the purpose of this Chapter, all international, Federal, State, County and other official monuments, bench marks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to ensure that these markers are maintained in good condition during and following construction and development. All section, one-quarter section and one-sixteenth section corners shall be duly described and tied.

**Subd. 9. 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 cases 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, upon receipt of the study shall, if appropriate, initiate an amendment to this chapter to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

**Subd. 10. 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 judge any provision of this Chapter to be invalid, such judgment shall not effect any other provisions 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. 11. Authority.**

This Chapter is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.365.

## SEC. 11.02. RULES AND DEFINITIONS.

### Subd. 1. Rules.

The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

**A.** The singular number includes the plural, and the plural the singular.

**B.** The present tense includes the past and the future tenses, and the future the present.

**C.** The word "shall" is mandatory while the word "may" is permissive.

**D.** The masculine gender includes the feminine and neuter.

**E.** All measured distances expressed in feet shall be to the nearest tenth of a foot.

**F.** For terminology not defined in this Chapter, this code, the Minnesota state building code or the Webster's dictionary shall be used to define such terms.

### Subd. 2. Definitions.

The following words and terms, wherever they occur in this Chapter, shall be interpreted as herein defined:

**"Accessory Use or Structure" -** A use or structure, or portion of a structure, on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**"Acid Etch" -** A finish achieved by casting concrete against a smooth, hard surface. After removal from the form the element is allowed to harden to a uniform hardness. The element is then washed with an acid solution and scrubbed to remove the cement surface to a sand level resulting in a smooth, sand textured surface.

**"Advertising Sign" -** A sign which directs attention to a business, commodity, activity, service or product not necessarily conducted, sold or offered upon the premises where such sign is located.

**"Agricultural Product Sign" -** A sign displayed on any farm by the owner or other operator thereof, for the purpose of identifying such farm or advertising the products thereof.

**"Agriculture Use" -** The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following:

**A**. Field crops, including: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.

**B**. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.

**C.** Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.

**"Alley"** - A street or thoroughfare affording secondary access to abutting property.

**"Agricultural Building or Structure" -** Any building or structure existing or erected, which is used principally for agricultural purposes, with the exception of dwelling units.

**"Animal Feedlot"** - A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals (not including animal laboratories, research and development facilities) 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. Open lots used for feeding and rearing of poultry (poultry ranges), and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and zoos, shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

**"Animal Kennel"** - Any place where more than three domestic animals of one type, over six months of age, are kept, sold, boarded, bred, or exhibited, except hospitals, clinics, and other premises operated by a licensed veterinarian exclusively for the care and treatment of animals.

**"Animal Unit"** - A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or manure storage area, calculated by multiplying the number of animals of each type by the respective multiplication factor and summing the resulting values for the total number of animal units. For the purposes of this Chapter, the following multiplication factors shall apply:

| | **Animal** | **Units** |
|---|---|---|
| A. | Dairy cattle: | |
| | 1 mature cow (milked or dry) greater than 1,000 pounds | 1.4 |
| | 1 mature cow (milked or dry) less than 1,000 pounds | 1.0 |
| | 1 heifer | 0.7 |
| | 1 calf | 0.2 |
| B. | Beef cattle: | |
| | 1 cow and calf pair | 1.2 |
| | 1 slaughter cow or stock steer | 1.0 |
| | 1 feeder cattle or heifer | 0.7 |
| | 1 calf | 0.2 |
| C. | Swine: | |
| | 1 greater than 300 pounds | 0.4 |
| | 1 55 pounds to 300 pounds | 0.3 |
| | 1 less than 55 pounds | 0.05 |
| D. | 1 horse | 1.0 |
| E. | 1 sheep or lamb | 0.1 |
| F. | Chicken: | |
| | 1 laying hen or broiler - liquid storage | 0.033 |
| | 1 laying hen or broiler - dry storage greater than 5 pounds | 0.005 |
| | 1 laying hen or broiler - dry storage less than 5 pounds | 0.003 |

| | | |
|---|---|---|
| G. | Turkey: | |
| | 1 greater than 5 pounds | 0.018 |
| | 1 less than 5 pounds | 0.005 |
| H. | 1 duck | 0.01 |
| | For animals not listed, the number of animal units shall be the average weight of the animal in pounds divided by 1,000 pounds. | |

**"Animals" -**

**A.** Farm Animals: Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as farm animals in the state of Minnesota.

**B.** House Pets: Animals such as dogs, cats, birds (not including pigeons, chickens, geese, turkeys or other domestic fowl), gerbils, hamsters, rabbits (including those normally sheltered outside of the principal structure), and tropical fish, that can be contained within a principal structure throughout the entire year, provided that the containment can be accomplished without special modification to the structure that would require a building permit, excluding wild or domesticated wild animals.

**"Attached Sign" -** Any sign posted, painted or constructed, attached to the wall, roof, facade, canopy, marquee or porch of any structure; provided the sign does not extend above the highest point of the roof.

**"Auto or Motor Vehicle Reduction Yard" -** A lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sales as scrap, storage, or abandonment. (See also Junk Yard.)

**"Automobile Service Station" -** A building designed primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles or any portion thereof.

**"Basement" -** A portion of a building located partly underground but having half or more of its floor to ceiling height below the average grade of the adjoining ground.

**"Boarding House"** (Rooming or Lodging House) **-** A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons, but not to exceed 20 persons.

**"Brick" -** The conventional molded rectangular block of baked clay, nominal four inch width. Thin brick veneer, faux brick, or decorative brick shall not be permitted as a building material for nonresidential structures.

**'Brick Face" -** A precast panel with a cavity cast in, or a plate cast in if the brick runs to the bottom of the edge so that the brick can be set in the panel after its removal from the form.

**"Building" -** Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

**"Building Height"** - A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deck line of a mansard roof, to the uppermost point on all other roof types.

**"Building Integrated SES"** – An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or thermal solar systems that are contained within roofing materials, windows, skylights and awnings. (Added Ord. No. 127, Second Series, 2-17-15)

**"Building Line"** - A line parallel to the street right-of-way line at any story level of a building and representing the minimum distance, which all or any part of the building is set back from said right-of-way line.

**"Building Setback"** - The minimum horizontal distance between the building and a lot line, or the normal high water mark of a stream or river.

**"Business"** - Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

**"Business Sign"** - A sign which directs attention to a business, profession, commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached.

**"Cast Stone" -** A finish achieved by ramming moist zero slump concrete against smooth rigid formwork until the product is densely compacted and ready for removal from the form. After curing, the panel may be hand rubbed or acid etched.

**"Changing Sign"** - A sign which has a message which is automatically changed, such as those signs providing the time, temperature or stock market data.

**"Clear-Cutting"** - The entire removal of a stand of vegetation.

**"Clustering/Cluster Housing"** - The development pattern and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land.

**"Community SES"** - A solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location or the solar energy system, for the primary purpose of generating electricity for use by members of the Community SES. A community SES shall be an accessory land use for the parcel on which it is located. (Added Ord. No. 127, Second Series, 2-17-15)

**"Comprehensive Plan"** - A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the City and its environs, as defined in the Municipal Planning Act, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**"Commissioner"** - The Commissioner of Natural Resources.

**"Conditional Use" -** A specific type of structure or land use that is allowed under this Chapter, but only upon a finding that : (1) certain specified conditions are satisfied or adequately addressed, and (2) the structure or land use conforms to the comprehensive land use plan and is compatible with the existing neighborhood.

**"Conditional Use Permit" -** A permit issued by the City Council in accordance with procedures specified in this Chapter that authorizes, with conditions, a requested structure or land use.

**"Curb Level" -** The grade elevation established by the Council of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this Chapter.

**"Daycare Facility" -** Any state licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Daycare facilities include, but are not limited to: family daycare homes, group family daycare homes, daycare centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and other "nonresidential programs" as defined by Minnesota Statutes Section 245A.02, Subdivision 10.

**"Directional Sign" -** A sign directing traffic on private property but bearing no advertising matter.

**"Drive-In" -** Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.

**"Dwelling, Attached" -** One which is joined to another dwelling or building at one or more sides by a party wall or walls.

**"Dwelling, Detached" -** One which is entirely surrounded by open space on the same lot with no common party walls.

"**Dwelling" -** A building or portion thereof, designated for residential occupancy, including one-family, two-family and multiple-family dwellings, but not including hotels, motels, boarding houses, bed and breakfast, mobile homes or trailers.

**"Dwelling, Efficiency Apartment" -** A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets, or dining alcove.

**"Dwelling, Multiple-Family" -** A building designed with three or more dwelling units for occupancy by three or more families living independently of each other, but sharing hallways and main entrances and exits.

**A.** Apartment: A room or suite of rooms, available for rent which is occupied as a residence by a single family, or a group of individuals living together as a single-family unit.

**B.** Common Interest Communities: A development containing individually owned units and jointly owned and shared areas wherein the boundaries are defined by a common interest community in accordance with Minnesota Statutes, Chapters 515, 515A or 515B, as amended.

**C.** Condominium: A multiple-family dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota condominium law, Minnesota Statutes, Sections 515.01 through 515.29.

**D.** Cooperative: A multiple-family dwelling owned and maintained by the residents and subject to the provisions of Minnesota Statutes 290.09 and 290.13. 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.

**"Dwelling, Nursing Home" -** A state licensed facility or that part of a facility which provides nursing care to five or more persons and does not include a facility or that part of a facility which is a hospital, a hospital with approved swing beds as defined in Minnesota Statutes, Section 144.562, clinic, doctor's office, diagnostic or treatment center, or a residential program licensed pursuant to Minnesota Statutes, Sections 245A.01 to 245A.16 or 252.28

**"Dwelling, Senior Housing" -** A dwelling with open occupancy limited to persons over 55 years of age.

**"Dwelling, Single-Family" -** A dwelling unit designed for and occupied exclusively by one family.

**A.** Attached: A dwelling which is joined to another at one or more sides by a party wall.

**B.** Detached: A dwelling unit not attached to another dwelling or structure.

**"Dwelling, Townhouses" -** Structures housing three or more dwelling units contiguous to each other only by the sharing of one or more common walls with each unit having a separate entrance/exit, such structures to be of the townhouse or row house type as contrasted to multiple-family dwelling apartment structures.

**"Dwelling, Townhouses, Detached" -** A structure having the characteristics of a multiple-unit townhouse structure that has been separated into single dwelling units at the common side wall, typically with structure dimensions that have a narrow front and deep side walls and are typically without windows or features on at least one of the side walls.

**"Dwelling, Two-Family" -** A structure designed for occupancy by two families living independently of each other.

**A.** Duplex: A two-family dwelling with one unit above the other.

**B.** Twinhome: A two-family dwelling with two units side by side.

**"Dwelling Unit" -** A residential building or portion thereof intended for occupancy by one or more persons with facilities for living, sleeping, cooking and eating, but not including hotels, motels, nursing homes, tents, seasonal cabins, boarding or rooming houses, motor homes, or travel trailers

**"Earth Sheltered Building" -** A building constructed so that 50% or more of the completed structure is covered with earth. Earth covering is measured from the lowest level of livable space in residential units and of usable space in non-residential buildings. An earth-sheltered building is a complete structure that does not serve just as a foundation or substructure for above-ground construction. A partially completed building shall not be considered earth sheltered.

**"Earth Sheltered Berm" -** An earth covering on the above grade portions of building walls.

**"Easement" -** A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining walkways; roadways; utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

**"Efficiency Unit" -** A dwelling unit with one primary room which doubles as a living room, kitchen, and bedroom.

**"Equal Degree of Encroachment" -** A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

**"Essential Services" -** The erection, construction, alteration, or maintenance by private or public utilities, or municipal departments of underground or overhead telephone, gas, electrical, steam, hot water, communication, waste, or water transmission, distribution, collection, supply or disposal systems, including water towers, wells, poles, wires, radio receivers and transmitters, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, utility substations and other similar equipment, accessories and related structures in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Essential services shall not include waste facilities or personal wireless service antennas or support structures.

**"Exposed Aggregate" -** A finish achieved by:

**A.** Casting against a form surface that has been painted with retarder that retards the set of the concrete at its surface.

**B.** Application of a chemical retarder to the surface of the form. The retarder prevents the matrix from hardening at the surface of the panel to a specific depth, controlled by the strength of the retarder. After curing, the unhardened layer of matrix at the surface of the panel is removed by a high pressure water washing, thus, exposing the aggregate used in the concrete.

**C.** Casting concrete against a smooth hard surface. After removal from the form, the finished surface is sandblasted to remove the matrix and expose, as well as etch, the coarse aggregate.

**"Exterior Storage" (Includes Open Storage) –** The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

**"Extraction Area"** - Any non-agricultural artificial excavation of earth exceeding 50 square feet of surface area of two feet in depth, other than activity involved in preparing land for earth sheltered or conventional construction of residential, commercial and industrial buildings, excavated or made by the removal from the natural surface of the earth, of sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth, except that public improvement projects shall not be considered extraction areas.

**"Family"** - An individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

**"Farm"** - A tract of land which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such farms may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

**"Fence"** - Any partition, structure, wall or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.

**"Fitness Center"** - A business that provides strength machine and cardiovascular exercise stations within a circuit training program, usually for the benefit of its membership, excluding any and all group classes, hot tubs, saunas, and competitive sports facilities.

**"Flashing Sign"** - A sign which contains an intermittent flashing light by means of animation or an externally-mounted intermittent light source.

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

**"Flood Frequency"** - The frequency for which it is expected that a specific flood stage or discharge may be equalled or exceeded.

**"Flood Fringe"** - That portion of the flood plain outside of the floodway. Flood Fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Pine Island, Minnesota.

**"Flood Plain"** - The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

**"Flood Proofing"** - A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

**"Floodway"** - The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

**"Floor Area"** - The sum of the gross horizontal area of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within a building or structure.

**"Form Liners" -** A finish achieved by the use of plaster, rubber, grained wood, rope or other material as a liner in the casting form to impart a particular finish to the face of the panel.

**"Freestanding Sign"** - A sign standing on the ground. Such signs are usually, but not necessarily, supported from the ground by one or more poles or posts on similar uprights with or without braces, including benches and "A" or sandwich boards.

**"Frontage"** - That boundary of a lot which abuts an existing or dedicated public street.

**"Garage, Private"** - An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.

**"Grade"** - The average of the finished level at the center of the exterior walls of the building. For an earth-sheltered building, grade means the average of the finished level at the center of the lot. For a building with earth berms but less than 50% earth covering, grade means the average of the finished level at the center of the building at the beginning of the earth berm.

**"Ground Mounted SES" -** Freestanding solar energy system (panels) that are mounted to the ground by use of stabilizers or similar apparatus. (Added Ord. No. 127, Second Series, 2-17-15)

**"Health Club" -** A business that provides recreational services and facilities, usually for the benefit of its membership, involving aerobic exercises, strength and cardiovascular equipment, indoor or outdoor game courts, swimming pools, running tracks, massage, tanning, hair and other personal services, saunas, showers and lockers.

**"Home Occupation"** - Any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit. Such uses include professional offices, minor repair services, photo or art studies, dressmaking, barbershops, beauty shops, tourist homes, or similar uses.

**"Home Occupation Sign"** - A sign permitted in association with an occupation conducted on the premises within a dwelling unit occupied by the operator of the business.

**"Horticulture"** - Horticulture uses and structures designed for the storage of products and machinery pertaining and necessary thereto.

**"Hotel"** - A building, which provides a common entrance, lobby, halls and stairway and in which 20 or more people can be, for compensation, lodged with or without meals.

**"Identification Sign"** - A permanent sign announcing the name of a subdivision, group housing project, church, school, park, planned shopping center, planned industrial center or public or quasi-public areas.

**"Illuminated Sign"** - Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or tubes or by other artificial light directed to the sign or internally illuminated.

**"Interim Use" -** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow it.

**"Interim Use Permit" -** A permit issued in accordance with procedures specified in this Chapter, as a flexible device to enable the City Council to assign time limits and conditions to a proposed use after consideration of current or future adjacent uses and their functions.

**"Junk Yard" -** An open area where waste, used, or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes an auto-wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

**"Kennel" -** Any structure or premises on which two or more dogs over six months of age are kept for sale, breeding, profit, etc.

**"Landscaping" -** Plantings, including trees, grass, ground cover, and shrubs.

**"Light Sandblast" -** A finish achieved by casting concrete against a smooth, hard surface. After removal from the form, the element is given a light sandblasting removing the cement skin from the surface resulting in a smooth, sand textured surface.

**"Location Sign" -** A sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained.

**"Lodging Rooms" -** A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room, which provides sleeping accommodation shall be counted as one lodging room.

**"Lot" -** A designated parcel or portion of land established by subdivision or plat of land, separated from other parcels by legal description, for the purpose of conveyance or use thereof.

**"Lot of Record" -** Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor's Subdivision or a Registered Land Survey that has been recorded in the office of the County Recorder for Goodhue County, Minnesota, prior to the effective date of this Chapter.

**"Lot Area" -** The area of a lot in a horizontal plane bounded by the lot lines.

**"Lot, Corner" -** A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

**"Lot Coverage" -** The area of the zoning lot occupied by the principal buildings and accessory buildings. Earth berms are not to be included in calculating lot coverage. Only the above grade portions of an earth-sheltered building should be included in lot coverage calculations.

**"Lot Depth" -** The mean horizontal distance between the front lot line and the rear lot line of a lot.

**"Lot Line" -** The property line bounding a lot except that where any portion of a lot extends into the public right-of-way shall be the lot line for purposes of this Chapter.

**"Lot Line, Front" -** That boundary of a lot which abuts an existing or dedicated public street and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the County Recorder.

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

**"Lot Line, Side" -** Any boundary of a lot, which is not a front lot line or a rear lot line.

**"Lot, Substandard" -** A lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the effective date of this Chapter which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Chapter.

**"Lot Width" -** The maximum horizontal distance between the side lot lines of a lot measured within the first 30 feet of the lot depth.

**"Manufactured Home" -** A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, except that the term includes any structure which meets all the requirements, and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this Chapter. The term “manufactured home” does not include the term “recreational vehicle.”

**"Manufactured/Mobile Home Park" -** Any site, lot, field or tract of land under single ownership, designated, maintained or intended for the placement of two or more occupied homes. It shall include any buildings, structure, vehicle, or enclosure intended for use as part of the equipment of such mobile/manufactured home park.

**"Metes and Bounds" -** A method of property description by means of their direction and distance from an easily identifiable point.

**"Mining" -** The extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removing thereof from the site. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building permit.

**"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.

**"Motel" (Tourist Court)** - A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

**"Name Plate Sign** - Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

**"Natural Stone Veneer" -** A finish achieved by placing natural stone pieces into a form and casting concrete behind it resulting in a precast panel having a natural stone face.

**"Non-Conforming Use" -** Use of land, buildings, or structures legally existing on the effective date of this Chapter which does not comply with all the regulations of this Chapter or any amendments hereto governing the zoning district in which such use is located.

**"Nursery, Landscape**" - A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.

**"Nursing Home"** - A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health as provided for in Minnesota Statutes, Section 144.50.

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

**"Off Premises Sign" -** A commercial speech sign, including billboards, which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of the sign ordinance, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off premises sign.

**"Open Sales Lot" (Exterior Storage)** - Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

**"Parking Space"** - A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

**"Pedestrian Way"** - A public or private right-of-way across or within a block, to be used by pedestrians.

**"Permitted Use" -** A public or private use which of itself conforms with the purpose, objectives, requirements, regulations and (not "arid") performance standards of the applicable zoning district.

**"Photovoltaic System" -** An active solar energy system that converts solar energy directly into electricity. (Added Ord. No. 127, Second Series, 2-17-15)

**"Planned Unit Development"** - A residential development whereby buildings are grouped or clustered in and around common open space areas in accordance with a prearranged site plan and where the common open space is owned by the homeowners and usually maintained by a homeowner's association.

**"Principal Use or Structure"** - All uses or structures that are not accessory uses or structures. A **"principal use"** may be either permitted or conditional.

**"Professional Sign"** - An attached sign of no more than 15 square feet indicating the location of a professional office and its tenants. A professional sign may be illuminated only if such illumination causes no direct or reflected glare on adjacent property.

**"Projecting Sign"** - A sign, other than a wall sign, which is attached to the building wall and which extends more than 18 inches from the face of such wall and is supported by a wall of a the building or structure.

**"Property Line"** - The legal boundaries of a parcel of property which may also coincide with a right-of-way line or a road, cartway, and the like.

**"Property Owner"** - Any person, association or corporation having a freehold estate interest, leasehold interest extending for a term or having renewal options for a term in excess of one year, a dominant easement interest, or an option to purchase any of same, but not including owners or interests held for security purposes only.

**"Protective Covenant"** - A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

**"Public Land"** - Land owned or operated by municipal, school district, county, state or other governmental units.

**"Public Service Sign"** - A sign advertising only the name, time and place of any bona fide fair, carnival, festival, bazaar, horse show, or similar event, when conducted by a public agency or for the benefit of any civic or charitable cause; provided that the sign shall be displayed for a short period of time only, in no event to exceed 21 days, signs of any political party or announcing the candidacy of any individual for any nomination for a general or special election can be displayed no sooner than 90 days before the event and must be removed within five days after the event.

**"Pylon Sign"** - A free standing sign erected upon a single pylon or post which is in excess of ten feet in height with a sign mounted on top thereof.

**"Reach"** - A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

**"Real Estate Sign"** - An on-premise sign for the purpose of advertising the sale or lease or the completion of the sale or lease, of real estate when erected or displayed on the property so advertised and removed within 14 days of sale or lease. No zoning permit is required if the sign has an area of six square feet or less.

**"Recreation, Commercial" -** Includes all uses such as bowling alleys, roller and skating rinks, driving ranges, and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

**"Recreation, Public"** - Uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

**"Regional Flood"** - A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

**"Registered Land Survey" -** A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of Registered Land Survey Number. (See Minnesota Statutes 508.47).

**"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.

**"Religious Institution" -** A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

**"Residential Care Facility"** - Means a living unit established primarily for the accommodation and treatment of persons who are mentally ill, developmentally disabled, physically disabled, and drug dependent.

**"Roof or Building Mounted SES" -** A solar energy system (panels) that are mounted to the roof or building using brackets, stands or other apparatus. (Added Ord. No. 127, Second Series, 2-17-15)

**"Roof Pitch" -** The final exterior slope of a building roof calculated by the rise over the run, typically, but not exclusively, expressed in twelfths such as 3/12, 9/12 or 12/12. (Added Ord. No. 127, Second Series, 2-17-15)

**"Rotating Sign"** - Any sign or portion of a sign which moves in a revolving or oscillating or similar manner by mechanical means but not including changing signs.

**"Selective Cutting"** - The removal of single scattered trees.

**"Setback"** - The minimum distance between a structure or sanitary facility and a road, highway or property line.

**"Shore Land" -** Land located within the following distance from public waters: (1) 1,000 feet from the ordinary high water mark of a lake, pond or flowage; and (2) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shore lands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the water or lesser distances and when approved by the Commissioner.

**"Shore Land Alteration" -** Grading and filling in shore land area or any alteration of the natural topography where the slope of the land is toward a public water or a watercourse leading to a public water.

**"Shoreland Setback" -** The minimum horizontal distance between a structure and the ordinary highwater mark.

**"Sign" -** Any presentation or representation by letter, symbol, number or combination thereof, which is visible from a public right-of-way for the purpose of making something known. Signs include, but are not limited to figures, devices, pennants, emblems and pictures. Signs do not include the interior of buildings.

**"Sign Structure" -** The supports, uprights, bracing or framework of any structure, be it single-faced, double-faced, V-type or otherwise exhibiting a sign.

**"Smooth As Cast" -** Concrete placed against a hard, smooth formwork to achieve a smooth "as cast" finish on the precast element.

**"Solar Access" -** A view of the sun, from any point on the collector surface that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 AM and 3:00 PM Central Standard time on any day of the year. (Amended Ord. No. 127, Second Series, 2-17-15)

**"Solar Collector" -** A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, mechanical, chemical or electrical energy. (Amended Ord. No. 127, Second Series, 2-17-15)

**"Solar Energy" -** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector. (Added Ord. No. 127, Second Series, 2-17-15)

**"Solar Energy System (SES)"** – An active solar energy system that collects or stores solar energy and transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal or chemical means. (Amended Ord. No. 127, Second Series, 2-17-15)

**"Solar Farm" -** A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity, shall be located on property five (5) acres in size or more. A solar farm is the primary land use for the parcel on which it is located. (Added Ord. No. 127, Second Series, 2-17-15)

**"Solar Skyspace"** - The space between a solar energy collector and the sun, which must be free of obstructions that shade the collector to an extent which precludes its cost effective operation. (Amended Ord. No. 127, Second Series, 2-17-15)

**"Solar Skyspace Easement"** - A right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar skyspace of an actual, proposed, or designated solar energy collector at a described location by forbidding or limited activities or land uses that interfere with access to solar energy. The solar skyspace must be described as the three dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two methods. (Amended Ord. No. 127, Second Series, 2-17-15)

**"Story"** - That portion of a building included between the surface of any floor and the surface of the floor next above, including below ground portions of earth sheltered buildings.

**"Street"** - A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road, or way.

**"Street, Collector"** - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

**"Street, Major or Thoroughfare"** - A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

**"Street, Local"**- A street intended to serve primarily as an access to abutting properties.

**"Street Pavement"** - The wearing or exposed surface of the roadway used by vehicular traffic.

**"Street Width"** - The width of the right-of-way, measured at right angles to the centerline of the street.

**"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 Section 11.60, Subdivision 9 of this Chapter and other similar items.

**"Structure Height" -** A distance to be measured from the mean ground level to the top of the structure. (Added Ord. No. 127, Second Series, 2-17-15)

**"Subdivision"** - The division or redivision of a lot, tract, or parcel of land into two or more lots either by plat or by metes and bounds description.

**"Substantial Damage"** – Damage of any origin that is sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

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

**A. A**ny project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

**B.** Any alteration of a historic structure, as defined in the Federal Code of Regulations in Part 59.1, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**"Surface Area of Sign" -** The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside of the limits of such sign and not forming an integral part of the display.

**"Temporary Sign" -** An attached sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse shows or auctions, displayed in such a manner less than 14 consecutive days.

**"Tooled" -** A finish achieved by casting concrete against a smooth or specifically textured or patterned formwork. After removal from the form, the hardened surface is treated mechanically to create the desired effect such as "fractured fin" or "bush hammered".

**"Travel Trailer"** – A vehicle that is built on a single chasses, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. As used in this Section, the terms recreational vehicle and travel trailer and travel vehicle are synonymous.

**"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.

**"Variance" -** A City Council approved modification to the literal requirements of this Chapter.

**"Wall Sign" -** A sign affixed directly to the exterior wall and confined within the limits thereof of any building and which projects from that surface less than 18 inches at all points.

**"Wetland" -** Land which is annually subject to periodic or continual inundation by water and commonly referred to as bog, swamp, or marsh.

**"Yard" -** A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Chapter. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located. For earth sheltered buildings and buildings covered with earth berms, the line of the building is measured from the exterior surface of the building regardless of whether it is above or below grade.

**"Yard, Rear" -** The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

**"Yard, Side" -** The yard extending along the side lot line between the front yard and rear yard to a depth or width required by setback regulations for the zoning district in which such lot is located.

**"Yard, Front" -** A yard extending along the full width of the front lot line between side lot lines and extending from the front lot line to a depth required in the setback regulations for the zoning district in which such lot is located.

**"Zoning Amendment" -** A change authorized by the City either in the allowed use within a district or in the boundaries of a district.

**"Zoning District" -** An area or areas within the limits of the City for which the regulations and requirements governing use are uniform as defined by this Chapter.

**"Zoning District Overlay" -** A Zoning District containing regulations superimposed upon other Zoning District regulations and superseding the underlying Zoning District use regulations.

## SEC. 11.03. NON-CONFORMING USES AND STRUCTURES.

### Subd. 1. Purpose.

It is the purpose of this Section to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures and uses will be operated and maintained. This zoning Chapter establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Section that all nonconforming uses shall be eventually brought into conformity.

### Subd. 2. General Provisions.

Any structure or use lawfully existing upon the effective date of this Chapter that does not conform to the provisions of this Chapter may be continued, including through repair, replacement, restoration, maintenance or improvement, subject to the following conditions:

**A.** A non-conforming structure or use may only be expanded or enlarged upon issuance of a variance (Amended, Ord. 124, Second Series, 9-25-2013).

**B.** If a non-conforming use is discontinued for a period of 12 months, any subsequent use must thereafter conform to this Chapter.

**C**. If a non-conforming structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value as indicated in the records of the county assessor at the time of damage, such structure may not be repaired, replaced or restored except in conformity with this Chapter unless a building permit is applied for within 180 days of the date of the property was damaged. The City may impose reasonable conditions in the building permit to mitigate the impact of any adjacent property or water body.

**D.** The City may impose reasonable regulation upon non-conforming structures or uses to prevent and abate nuisances and to protect the public health, welfare, or safety.

**E.** The City may regulate the repair, replacement, maintenance, improvement or expansion of non-conforming uses and structures in floodplain areas to maintain eligibility in the National Flood Insurance Program, and to reduce the flood damage potential or increase the degree of obstruction to flood flows in the floodway.

**SEC. 11.04 - 11.10 RESERVED FOR FUTURE EXPANSION.**

## SEC. 11.11. PLANNED UNIT DEVELOPMENT (PUD).

### Subd. 1. Purpose.

The purposes of this Section are: (1) to encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements such as lot sizes and building setbacks, while at the same time meeting the standards and purposes of the Comprehensive Plan and preserving the health, safety, and welfare of the citizens of Pine Island; (2) to allow for a mixture of residential units in an integrated and well-planned area; and, (3) to ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes, and scenic areas.

### Subd. 2. Permitted Uses.

Dwelling units in detached, clustered, semi-detached, attached, or multi-storied structures or combinations thereof.

### Subd. 3. General Requirements.

A conditional use permit shall be required of all planned unit developments. The City may approve the planned unit development only if it finds that the development satisfies all the following standards in addition to meeting the requirements of Section 11.17 except for the time limit:

**A.** The planned unit development is consistent with the Comprehensive Plan of the City.

**B.** The planned unit development is an effective and unified treatment of the development possibilities in the project site and the development plan provides for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.

**C.** The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.

**D**. Financing is available to the applicant on conditions and in an amount which is sufficient to assure completion of the planned unit development.

**E.** A minimum of five or more principal structures are proposed.

**F**. The tract under consideration is under single control.

**G.** The tract is at least two acres in size.

### Subd. 4. Coordination with Subdivision Regulations.

**A.** It is the intent of this Chapter that Subdivision review under the Subdivision regulations be carried out simultaneously with the review of a planned development under this Section.

**B.** The plans required under this Section must be submitted in a form which will satisfy the requirements of the Subdivision regulations for the preliminary and final plans required under these regulations.

**Subd. 5. Pre-Application Meeting.**

Prior to the submission of any plan to the Planning Commission, the applicant shall meet with the Zoning Administrator, and if necessary, with the Planning Commission to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps for a conditional use permit and a preliminary plat. The applicant may submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to avail themselves of the advice and assistance of the planning staff to facilitate the review of the outline plan and preliminary plat.

**Subd. 6. Preliminary Development Plan.**

**A**. An applicant shall make an application for a conditional use permit following the procedural steps as set forth in this Chapter.

**B**. In addition to the criteria and standards set forth herein for the granting of the conditional use permits, the following additional findings shall be made before the approval of the outline development plan.

**1.** The proposed PUD is in conformance with the Pine Island.

**2.** The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to potential surrounding uses.

**3.** Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation of dwelling units and common open space are balanced and coordinated.

**4.** The PUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which are proposed to serve the district.

**5.** The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.

**C.** Preliminary Development Plan Documentation. The following exhibits shall be submitted to the Zoning Administrator by the proposed developer as part of the application of a conditional use permit:

**1.** An explanation of the character and need for the planned development and the manner in which it has been planned to take advantage of the planned development regulations.

**2**. A statement of proposed financing of the PUD.

**3.** A statement of the present ownership of all the land included within the planned development and a list of property owners within 350 feet of the outer boundaries of the property.

**4.** A general indication of the expected schedule of development including sequential phasing and time schedules.

**5**. A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easement, street rights-of-way, utilities, and buildings for the property, and for the area 350 feet beyond.

**6.** Natural features map or maps of the property and area 350 feet beyond showing contour lines at no more than two foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil condition.

**7**. A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.

**8.** Full description as to how all necessary governmental services will be provided to the development including sanitary sewers, storm sewers, water system, streets, and other public utilities.

**D.** Preliminary Plat. The applicant shall also submit a preliminary plat and all the necessary documentation as required under the Subdivision Regulations of all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the conditional use permit and preliminary plat may be combined into one hearing or may be held concurrently.

**Subd. 7. Final Development Plan.**

**A.** Within 90 days following the approval of the preliminary development plan with recommended modifications, if any, and the preliminary plat, the applicant shall file with the Zoning Administrator a final development plan containing in final form the information required in the preliminary development plan plus any changes recommended by the Planning Commission and the Council as a result of the public hearing. The applicant shall also submit a final plat for all or that portion to be platted.

**B.** The Zoning Administrator shall submit a final development plan and the final plat to the Planning Commission for review.

**C.** The final development plan and the final plat shall conform to the preliminary development plan and preliminary plat plus any recommended changes by the Planning Commission or the Council to the general development plan and preliminary plat.

**D.** The Council shall review the final development plan and final plat. The Council shall give notice and provide opportunity to be heard on the final development plan to any person who has indicated in writing that they wish to be notified.

**E**. If the final development plan is approved by the Council, the Zoning Administrator shall issue a conditional use permit to the applicant.

**Subd. 8. Enforcing Development Schedule.**

The construction and provisions of all of the common open spaces and public and recreational facilities, which are shown on the final development plan must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan, the Zoning Administrator shall review all of the building permits issued for the planned development and examine the construction which has taken place on the site. If the Administrator shall find that the rate of construction of dwelling units is faster than the rate at which common open spaces and public and recreational facilities have been constructed and provided, the Administrator shall forward this information to the Council, which may revoke the conditional use permit. If the developer or landowners fail to complete the open spaces and recreation areas within 60 days after the completion of the remainder of the project, the City may finish the open space areas and assess the cost back to the developer or landowner.

**Subd. 9. Conveyance and Maintenance of Common Open Space.**

**A**. All land shown on the final development plan as common open space must be conveyed under one of the following methods at the option of the City:

**1**. It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures, or improvements which have been placed on it.

**2**. It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the trustees subject to covenants to be approved by the Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

**B**. If the common open space is conveyed to a homeowner's association, and the common open space is not maintained properly to standards established by the City, the City shall have the authority to maintain the property and assess the costs back to the homeowner's association.

**Subd. 10. Standards for Common or Public Open Space.**

**A.** No open area may be accepted as common open space under the provisions of this Chapter unless it meets the following standards:

**B.** The location, shape, size and character of the common open space must be suitable for the planned development.

**C.** Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

**D.** Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must converse and enhance the amenities of the common open space having regard to its topography and unimproved condition.

**Subd. 11. PUD Review and Amendments.**

**A.** Annual Review. The Zoning Administrator and the Planning Commission shall review all PUD's within the City at least once each year and shall make a report to the Council on the status of the development in each of the PUD Districts. If the Council finds that the development has not occurred within a reasonable time after the original approval of the conditional use for the PUD, the Planning Commission may recommend that the City revoke the conditional use permit as set forth herein.

**B**. Revisions to the PUD.

**1.** Minor changes in the location, placement, and heights of buildings or structures may be authorized by the Zoning Administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved.

**2.** Approval of the Planning Commission and the Council shall be required for other minor changes such as rearrangement of lots, blocks, and building tracts. These changes shall be consistent with the purpose and intent of the approved final development plan.

**C.** Amendments to the PUD. Any amendment to the PUD shall require the same procedures for the application of a conditional use permit as set forth herein.

**SEC. 11.12 - 11.14 RESERVED FOR FUTURE EXPANSION.**

## SEC. 11.15. ADMINISTRATION.

### Subd. 1. Enforcing Officer.

This Chapter shall be administered and enforced by the Zoning Administrator who is appointed by the City Council. The Zoning Administrator may institute in the name of the City any appropriate actions or proceedings against a violator as provided by statute, charter or ordinance. The Zoning Administrator's duties shall include, but not be limited to, the following:

**A.** Review and approve administrative (zoning) for building permits and approve other permits, and make and maintain records of all permits, all certificates and all copies of notices of violation, discontinuance, or removal for such time as necessary to ensure a continuous compliance with the provisions of this Chapter and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.

**B.** Periodically conduct inspections of buildings and use of land to determine~~d~~ compliance with the terms of this Chapter.

**C**. Maintain permanent and current records of this Chapter, including but not limited to zoning amendments, conditional use permits, interim use permits, administrative permits, site plans, variances, appeals and applications.

**D.** Receive, file and forward, as applicable, to the Board of Zoning Adjustment, Planning Commission, or City Council all zoning amendments, conditional use permits, interim use permits, administrative permits, site plans, variances, appeals and applications and provide clerical and technical assistance to the planning commission and board of zoning adjustments and appeals and after a public hearing concerning a request, the reviewing body may adopt findings and shall transmit a recommendation concerning the request to the Council.

**E.** Institute in the name of the City any appropriate actions for proceedings against a violator as provided for in this Chapter by ordering discontinuance of illegal use of land, buildings, or structures; order removal of illegal buildings, structures, additions or alterations; order discontinuance of illegal work being done; or take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions, including cooperation with the City Attorney in the prosecution of complaints.

**F.** Notify, in writing, any person responsible for violating a provision of this Chapter, indicating the nature of the violation and ordering the action necessary to correct it.

### Subd. 2. Violation.

Any person who violates any of the provisions of this Chapter shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under state law. Each day that a violation is permitted to exist shall constitute a separate offense.

**Subd. 3. Standards and Procedures for Applications and Petitions.**

Pursuant to Minnesota Statutes 15.99, all applications and petitions submitted for approval under this Chapter shall be approved or denied within 60 days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant. Additional City requirements are as follows:

**A.** A pre-application meeting may be required by City staff at which the appropriate application procedures, requirements and applicable provisions relating to the request will be reviewed and explained.

**B.** Request for any application approval, as provided within this chapter, shall be filed with the Zoning Administrator on an official application form. Unless modified by the Zoning Administrator, such application shall be accompanied by a fee as provided for by City Council resolution. Such application shall also be accompanied by 15 copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of property owners located within 350 feet of the subject property. Said listing shall be obtained from and certified by an abstract company. The request shall be considered as being officially submitted when all the information requirements are satisfied. In cases where an application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within ten days of the date of submission.

**C.** Upon receipt of said application, the Zoning Administrator shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and property location, and be published in the official newspaper at least ten days prior to the hearing. Written notification of said hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question.

**D.** Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.

**E.** The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.

**F.** The Planning Commission shall consider possible effects of the proposed application and what additional conditions may be necessary to reduce any adverse effects. At a minimum, the Planning Commission, in its judgment, shall consider the following factors:

**1.** The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.

**2.** The proposed use is or will be compatible with present and future land uses of the area.

**3.** The proposed use conforms with all performance standards contained in the City Code.

**4.** The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

**5.** Traffic generation by the proposed use is within capabilities of streets serving the property.

**G.** The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

**H.** The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this Chapter. Such recommendation shall be in writing and accompanied by the report and recommendation of the City staff, and shall be entered in and made part of the permanent written record of the City Council meeting.

**I.** The City Council shall not grant application approval until the Planning Commission has held a public hearing on the request. The City Council shall act upon the application within 60 days from the date of submission of a complete application, unless an extension has been provided, pursuant to Minnesota Statutes 15.99.

**J.** Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary, shall make recorded findings of fact and may impose any condition it considers necessary to protect the public health, safety and welfare.

**K.** Subject to limitations of Minnesota Statutes 15.99, if, upon receiving said report and recommendations of the Planning Commission and City staff, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council may differ from that of the Planning Commission, the City Council may, before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

**L.** Approval of a request shall require passage by a majority vote of the City Council.

**M.** The Zoning Administrator shall keep a record of applications and a certified copy of any approved application shall be filed with the County Recorder.

**N.** Whenever an application has been considered and denied by the City Council, a similar application affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six months from the date of the second denial unless a decision to reconsider such matter is made by a majority vote of the City Council.

**Subd. 4. Information Requirement.**

The information required for all applications generally consists of the following items, and shall be submitted unless waived by the Zoning Administrator.

**A.** Site boundaries, buildings, structures and other improvements shall be identified on-site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:

**1.** Scale of plan (engineering scale only, at one inch equals 50 feet (1" = 50') or less.

**2.** North point indication.

**3.** Existing boundaries with lot dimension and area.

**4.** Existing site improvements.

**5.** All encroachments.

**6.** Easements of record.

**7.** Legal description of the property.

**8.** Ponds, lakes, springs, rivers, delineated wetlands or other waterways bordering on or running through the subject property.

**B.** A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:

**1.** Name and address of developer/owner.

**2.** Name and address of architect/designer.

**3.** Date of plan preparation.

**4.** Dates and description of all revisions.

**5.** Name of project or development.

**6.** All proposed improvements, including:

**(a)** Required and proposed setbacks.

**(b)** Location, setback and dimensions of all proposed buildings and structures.

**(c)** Location of all adjacent buildings located within 100 feet of the exterior boundaries of the property in question.

**(d)** Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.

**(e)** Location, number, and dimensions of proposed loading spaces.

**(f)** Location, width, and setbacks of all curb cuts and driveways.

**(g)** Vehicular circulation.

**(h)** Sidewalks, walkways, trails.

**(i)** Location and type of all proposed lighting, including details of all proposed fixtures.

**(j)** Location of recreation and service areas.

**(k)** Location of rooftop equipment, exterior heating, ventilation and air conditioning equipment and proposed screening.

**(l)** Provisions for outdoor storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.

**(m)** Location, sizing, and type of water and sewer system mains and proposed service connections.

**(n)** Location of proposed fire lanes and fire hydrants.

**C.** Grading/stormwater drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:

**1.** Existing contours at two foot intervals (may be prepared by a Minnesota licensed surveyor).

**2.** Proposed grade elevations at two foot maximum intervals.

**3.** Drainage plan, including the configuration of drainage areas and calculations.

**4.** Storm sewer, catch basins, invert elevations, type of castings, and type of materials.

**5.** Spot elevations (may be prepared by a Minnesota licensed surveyor).

**6.** Proposed driveway grades.

**7.** Surface water ponding and treatment areas.

**8.** Erosion control measures.

**D.** Landscaping plan, utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:

**1.** Planting schedule (table) containing:

**(a)** Symbols.

**(b)** Quantities.

**(c)** Common names.

**(d)** Botanical names.

**(e)** Sizes of plant material.

**(f)** Root specification (bare root, balled and burlapped, potted,etc.).

**(g)** Special planting instructions.

**2.** Location, type and size of all existing significant trees to be removed or preserved.

**3.** Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).

**4.** Typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.

**5.** Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials used.

**6.** Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.

**7.** Delineation of both sodded and seeded areas with respective areas in square feet.

**8.** Coverage plan for underground irrigation system, if any.

**9.** Where landscape or manmade materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevation.

**10.** Other existing or proposed conditions which could be expected to affect landscaping.

**E.** Other plans and information as required by the Zoning Administrator including, but not limited to:

**1.** Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).

**2.** "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.

**3.** Fire protection plan.

**4.** The extent of any proposed modifications, if any, to land within any overlay districts, as established by Section 11.24, Subdivision 1 of this Chapter.

**5.** Type, location and size (area and height) of all signs to be erected upon the property in question.

**6.** Vicinity map showing the subject property in reference to nearby highways or major street intersections.

**7.** Sound source control plan.

**8.** Lighting plan.

**9.** When required, evidence of completion of National Pollutant Discharge Elimination System (NPDES) permitting program.

**10.** If applicable, evidence of compliance with 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 with appropriate standards shall lie with the applicant.

## SEC. 11.16. ZONING AMENDMENTS.

The Council may adopt, by ordinance, amendments to this Chapter and the Zoning Map in relation both to land uses within a particular district or to the location of the district line. 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 City as reflected in the Comprehensive Plan or changes in conditions in the City.

### Subd. 1. Kinds of Amendments.

**A.** A change in a district's boundary (rezoning).

**B.** A change in a district's regulations.

**C.** A change in any other provision of this Chapter.

### Subd. 2. Initiation of Proceedings.

Proceedings for amending this Chapter shall be initiated by at least one of the following three methods:

**A.** By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.

**B.** By recommendation of the Planning Commission.

**C.** By action of the City Council.

### Subd. 3. Procedure.

Pursuant to Minnesota Statutes 15.99, an application for an amendment shall be approved or denied within 60 days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant. Additional City requirements are as follows:

**A.** Request for text and map amendments to the zoning ordinance shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided by City Council resolution. The request shall be considered as being officially submitted when all the information requirements are complied with as determined by the Zoning Administrator. In cases when an application is judged to be incomplete, the Zoning Administrator or their designee shall notify the applicant, in writing, of what information must be provided for the application to be deemed complete within 15 business days from the date of submission.

**B.** Upon receipt of a complete application, as determined by staff review, and following preliminary staff analysis of the application and request, the Zoning Administrator, when appropriate, shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and a general description of the property location, and be published in the official newspaper at least ten days prior to the hearing. Written notification of said hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question, if notification is required by state statute.

**C.** Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.

**D.** The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation of action to the City Council.

**E.** The Planning Commission shall consider possible effects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following factors:

**1.** The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.

**2.** The proposed use is or will be compatible with present and future land uses of the area.

**3.** The proposed use conforms with all performance standards contained in this Code.

**4**. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

**5.** Traffic generation by the proposed use is within capabilities of streets serving the property.

**F.** The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter. Failure on the part of the applicant to apply all necessary supportive information may be grounds for denial of the request.

**G.** Unless excused by the Zoning Administrator, the applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.

**H.** The Planning Commission shall, as appropriate, make findings of fact and shall recommend approval or denial of the request. Such recommendation shall be accompanied by the report and recommendation of the City staff.

**I.** The City Council shall not act upon an amendment until the Planning Commission has held a public hearing on the request. The City Council shall act upon the amendment within 60 days from the date of submission of a complete application, unless an extension has been provided, pursuant to Minnesota Statutes, Section 15.99.

**J.** Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary.

**K.** Subject to limitations of Minnesota Statutes, Section 15.99, if, upon receiving said reports and recommendations of the Planning Commission and City staff, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council may differ from that of the Planning Commission, the City Council may, before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

**L.** Approval of an amendment shall require a majority vote of the City Council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or industrial require a two-thirds majority vote of the City Council.

**M.** The amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment.

**N.** Whenever an application for an amendment has been considered and denied by the City Council, a similar application for the amendment affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths vote of the full City Council.

**Subd. 4. Certification of Taxes Paid.**

Prior to approving an application for rezoning, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the rezoning application relates.

## SEC. 11.17. CONDITIONAL USE PERMITS.

### Subd. 1. Purpose.

The purpose of a conditional use permit is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety and to require conditions related to the establishment of said use necessary to carry out the intent and purpose of the Chapter. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

### Subd. 2. Application and Procedures.

Uses defined as "conditional uses" shall be processed according to the standards and procedures set forth in Section 11.15, Subdivision 3 of this Chapter.

### Subd. 3. Information Requirement.

The information required for all conditional use permit applications shall be as specified in Section 11.15, Subdivision 4 of this Chapter unless waived by the Zoning Administrator.

### Subd. 4. General Performance Standards.

As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include conditions which are considered necessary to the meet the performance standards and criteria of this Chapter and to protect the best interests of the surrounding area or the City as a whole. The general performance standards and criteria may include but are not limited to the following:

**A.** The use and the site in question shall be served by a street of sufficient capacity to accommodate the type and volume of traffic which would be generated and adequate right-of-way shall be provided.

**B.** The site design for access and parking shall minimize internal as well as external traffic conflicts and shall be in compliance with Section 11.70, Subdivision 24 of this Chapter.

**C.** If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.

**D.** Adequate off-street parking and off-street loading shall be provided in compliance with Section 11.70, Subdivision 24 of this Chapter.

**E.** Loading areas and drive-thru facilities shall be positioned so as to minimize internal site access problems and maneuvering conflicts, to avoid visual or noise impacts on any "adjacent" residential use or district, and provided in compliance with Section 11.70, Subdivision 24 and Subdivision 26 of this Chapter.

**F.** Whenever a nonresidential use "is adjacent to" a residential use or district, a buffer area with screening and landscaping shall be provided in compliance with Section 11.70, Subdivision 7 of this Chapter.

**G.** General site screening and landscaping shall be provided in compliance with Section 11.70, Subdivision 7 of this Chapter.

**H.** All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts, and shall be in compliance with Section 11.70, Subdivision 4 of this Chapter.

**I.** Potential exterior noise and odor generated by the use shall be identified and mitigation measures as may be necessary shall be imposed to ensure compliance with Section 11.70, Subdivision 6 of this Chapter.

**J.** The site drainage system as well as availability and compatibility of utilities shall be subject to the review and approval of the City Engineer.

**K.** The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.

**L.** Provisions shall be made for daily litter control, an interior location for recycling, and trash handling and storage or an outdoor, enclosed receptacle area shall be provided.

**M.** All signs and informational or visual communication devices shall be in compliance with Section 11.71 of this Chapter.

**N.** Any applicable business licenses mandated by this code are approved and obtained and the use and site shall be in compliance with any Federal, State or County law or regulation that is applicable and any related permits shall be obtained and documented to the City.

**O.** Any applicable business licenses mandated by the City Code are approved and obtained.

**P.** The hours of operation may be restricted when there is judged to be an incompatibility with a residential use or district.

**Q.** The use complies with all applicable performance standards of the zoning district in which it is located and where applicable, any non-conformities shall be eliminated.

**R.** All additional conditions pertaining to a specific site are subject to change when the City Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.

**Subd. 5. Enforcement.**

Enforcement of the provisions of this Chapter shall be in accordance with Section 11.15, Subdivision 1 of this Chapter. The City reserves the right upon issuing any conditional use permits to inspect the premises to ensure compliance with the provisions of this Chapter or any conditions additionally imposed. Violation of an issued permit or of the provisions of this Chapter shall be grounds for revocation and denial of future permit applications or modifications.

**Subd. 6. Revocation.**

The Planning Commission may recommend, and the City Council may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this Chapter, City Code, or other applicable regulations. The City Council or Planning Commission shall initiate an application and the Zoning Administrator shall notify the responsible person that they have an opportunity to show why the permit should not be revoked. The application shall be processed and considered pursuant to Section 11.17, Subdivision 2 of this Chapter. The Zoning Administrator shall provide the responsible person a copy of the proceedings and findings of the Planning Commission and City Council.

**Subd. 7. Permit Modifications.**

Holders of a conditional use permit may propose modifications to the permit at any time. No changes in the approved plans or scope of the conditional use shall, however, be undertaken without prior approval of those changes by the City Council. Conditional use permit modifications may include, but shall not be limited to, hours of operation, number of employees, expansion of structures and/or premises, operational modifications resulting in increased traffic, and the like. Permit modifications shall be further subject to and processed according to Section 11.17, Subdivision 2 of this Chapter and shall be subject to all requirements and standards of this Section.

**Subd. 8. Expiration.**

Unless the City Council specifically approves a different time when action is officially taken on the request, conditional use permits which have been issued under the provisions of this Chapter shall expire without further action by the Planning Commission or the City Council within one year of the date of approval unless the applicant has substantially commenced the authorized use or improvement, or unless within 30 days prior to the expiration of the conditional use permit the applicant has petitioned for a time extension by completing and submitting a request for an extension, including the renewal fee as established by City Council resolution. Such extension request shall be submitted in writing and shall state facts showing a good faith attempt to complete or utilize the approval permitted in the conditional use permit. A request for an extension not exceeding one year shall be subject to the review and approval of the City Council. Should a second extension of time or any extension of time longer than one year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

**Subd. 9. Certification of Taxes Paid.**

Prior to approving an application for a conditional use permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the conditional use permit application relates.

## SEC. 11.18. INTERIM USE PERMITS.

### Subd. 1. Purpose and Intent.

The purpose and intent of allowing interim use permits is:

**A.** To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.

**B.** To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.

**C.** To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

### Subd. 2. Application and Procedures.

Uses defined as "interim uses" shall be processed according to the standards and procedures set forth in Section 11.15, Subdivision 3 of this Chapter.

### Subd. 3. Information Requirement.

The information required for all interim use permit applications shall be as specified in Section 11.15, Subdivision 4 of this Chapter unless waived by the Zoning Administrator.

### Subd. 4. General Performance Standards.

An interim use shall comply with the following:

**A.** Conform to the applicable general performance standards of Section 11.17, Subdivision 4 of this Chapter.

**B.** The use is allowed as an interim use in the respective zoning district.

**C**. The date or event that will terminate the use can be identified with certainty.

**D.** The use will not impose additional unreasonable costs on the public.

**E.** The user agrees to any conditions that the City Council deems appropriate for permission of the use.

**Subd. 5. Enforcement.**

Enforcement of the provisions of this Chapter shall be in accordance with Section 11.15, Subdivision 1 of this Chapter. The City reserves the right upon issuing any interim use permits to inspect the premises to ensure compliance with the provisions of this Chapter or any conditions additionally imposed. Violation of an issued permit or of the provisions of this Chapter shall be grounds for termination of the interim use permit.

**Subd. 6. Termination.**

An interim use shall terminate on the happening of any of the following events, whichever occurs first:

**A.** The date or event stated in the permit.

**B**. Upon violation of conditions under which the permit was issued.

**C.** Upon change in the City's zoning regulations rendering the use non-conforming.

**Subd. 7. Certification of Taxes Paid.**

Prior to approving an application for a conditional use permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the conditional use permit application relates.

**Subd. 8. Expiration.**

Unless the City Council specifically approves a different time when action is officially taken on the request, interim use permits which have been issued under the provisions of this Section shall expire without further action by the Planning Commission or the City Council within one year of the date of approval unless the applicant has substantially commenced the authorized use or improvement, or unless within 30 days prior to the expiration of the interim use permit the applicant has petitioned for a time extension by completing and submitting a request for an extension, including the renewal fee as established by City Council resolution. Such extension request shall be submitted in writing and shall state facts showing a good faith attempt to complete or utilize the approval permitted in the interim use permit. A request for an extension not exceeding one year shall be subject to the review and approval of the City Council. Should a second extension of time or any extension of time longer than one year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

## SEC. 11.19. VARIANCES.

### Subd. 1. Purpose.

The purpose of this Section is to provide for consideration of requests for variances from the requirements of the Zoning Code including restrictions placed on nonconformities.

### Subd. 2. Board of Zoning Adjustment.

**A.** The Planning Commission shall act as the Board of Zoning Adjustment and the Zoning Administrator and a member of the Council appointed by the Council shall serve as ex-officio non-voting members of the Board.

**B**. The Board shall review 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 where it is alleged that there is an error in any order, requirement, decision, or determination made by the administrative officer charged with enforcing this Chapter. Such appeal may be taken by any person, firm or corporation aggrieved or by any officer, department, board or bureau of the City. The Board shall also have the authority to grant variances to the provisions of this Chapter under certain conditions, as indicated in this Chapter.

**C.** Meetings by the Board shall be held within such times and upon such notice to interested parties as is provided in this Chapter.

### Subd. 3. Standards for Review of Variance Requests.

The Board of Zoning Adjustment shall consider variance requests in accordance with the following standards:

**A.** Variances shall only be permitted when they are in harmony with the general purposes and intent of this Zoning Code.

**B.** Variances shall only be permitted when consistent with the comprehensive plan.

**C.** Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Code.

**1.** "Practical difficulties" shall mean that the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Code; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

**2.** Economic considerations alone do not constitute practical difficulties.

**D.** The Board of Zoning Adjustment may not permit as a variance any use that is not allowed under the zoning code for property in the zone where the land is located.

**E.** The Board of Zoning Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

**Subd. 4. Application and Procedures.**

Pursuant to Minnesota Statutes 15.99, an application for a variance shall be approved or denied within 60 days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant. Additional City requirements are as follows:

**A.** Request for a variance or appeal shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. This fee shall not be refunded. Unless modified by the Zoning Administrator, such application shall also be accompanied by detailed written and graphic materials necessary for the explanation of the request, and a list of property owners located within 350 feet of the subject property obtained from and certified by an abstract company.

**B.** The application shall be considered as being officially submitted complete when the applicant has complied with all the specified informational requirements, which shall include the following:

**1.** A written description of the request for the variance, including an explanation of compliance with the variance criteria set forth in this Chapter.

**2.** Supporting materials, as outlined in Section 11.15, Subdivision 4 of this Chapter, as determined by the Zoning Administrator to be applicable and necessary for the complete and clear definition and understanding of the request.

**C.** In cases when an application is judged to be incomplete, the Zoning Administrator or their designee shall notify the applicant, in writing, of what information must be provided for the application to be deemed complete within 15 business days from the date of submission.

**D.** Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within this Chapter.

**E.** The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the board.

**F.** The Board of Zoning Adjustment and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter. Failure of the applicant to supply all necessary supportive information may be grounds for denial of the request.

**G.** Unless excused by the Board of Zoning Adjustment Chair, the applicant or a representative thereof shall appear before the Board of Zoning Adjustment to answer questions concerning the proposed variance.

**H.** The Board of Zoning Adjustment shall make findings of fact and approve or deny the request. The City staff reports shall be presented to the Board, and shall be entered in and made part of the permanent written record of the Board meeting.

**I.** The Board shall not act upon the variance until the Planning Commission has held a public hearing on the request. The Board shall act upon the request within 60 days from the date of submission, unless an extension has been provided, pursuant to Minnesota Statutes 15.99.

**J.** Upon receiving the report and recommendation of the planning commission and the City staff, the board shall have the option to set and hold a public hearing if deemed necessary.

**K.** Subject to limitations of Minnesota Statutes 15.99, if, upon receiving said reports and recommendations of the Planning Commission and City staff, the board finds that specific inconsistencies exist in the review process and thus the final determination of the board may differ from that of the Planning Commission, the Board may, before taking final action, refer the matter back to the Planning Commission for further consideration. The Board shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

**L.** The Board shall make findings of fact and approve or deny a request for variance within 30 days after the close of the public hearing on the request.

**M.** A variance of this Zoning Chapter shall be by a majority vote of the Board.

**N.** In granting any variance under the provisions of this Chapter, the Board shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provisions to which the adjustment or variance is granted, as to light, air, and the public health, safety, comfort, convenience and general welfare.

**O.** The Zoning Administrator shall serve a copy of the final order of the Board upon the applicant by mail.

**P.** Whenever an application for a variance has been considered and denied by the Board, a similar application for a variance affecting substantially the same property shall not be considered again by the Board for at least six months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Board for an additional six months from the date of the second denial unless a decision to reconsider such matter is made by a four-fifths vote of the full Board.

**Subd. 5. Expiration.**

Unless the Board of Zoning Adjustment specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this Section shall expire without further action by the Board, unless the applicant commences the authorized use or improvement within one year of the date the variance is issued; or, unless before the expiration of the one year period; the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by City Council resolution. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one year shall be subject to the review and approval of the Zoning Administrator.

**Subd. 6. Certification of Taxes Paid.**

Prior to approving an application for a variance, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the variance application relates.

## SEC. 11.20. APPEALS.

### Subd. 1. Board Designation.

The Planning Commission shall serve as the Board of Zoning Adjustment.

### Subd. 2. Applicability.

An appeal shall only be applicable to an administrative order, requirement or interpretation of intent of provisions of this Chapter. Opinions and evaluations as they pertain to the impact or result of a request are not subject to the appeal procedure.

### Subd. 3. Filing.

An appeal from the action of an administrative officer of the City shall be filed by the property owner or their agent with the Zoning Administrator within ten days after the making of the order, requirement, or interpretation being appealed.

### Subd. 4. Stay of Proceedings.

An appeal stays all proceedings and the furtherance of the action being appealed unless it is certified to the Board of Zoning Adjustment, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property.

### Subd. 5. Procedure.

The procedure for making an appeal shall be as follows:

**A.** The property owner or their agent shall file with the Zoning Administrator a notice of appeal stating the specific grounds upon which the appeal is made. Said application shall be accompanied by a fee as established by City Council resolution. In cases where the application is judged to be incomplete, the Zoning Administrator or their designee shall notify the applicant, in writing, of what information must be provided for the application to be deemed complete within 15 business days of the date of submission.

**B.** The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the board of Zoning Adjustment.

**C.** Pursuant to Minnesota Statutes 15.99, the Board of Zoning Adjustment shall make its decision by resolution within 60 days from the date on which a completed application is filed.

**D.** The Zoning Administrator shall serve a copy of the final order of the board upon the applicant by mail.

## SEC. 11.21. ADMINISTRATIVE PERMITS.

### Subd. 1. Purpose.

The purpose of this Section is to establish regulations and procedures for the processing and consideration of activities allowed by administrative permit (also referred to as a zoning permit), and of matters requiring the approval of the Zoning Administrator with the goal of protecting the health, safety, and welfare of the citizens of the City.

### Subd. 2. Procedure.

**A.** Application for an administrative permit shall be filed by the property owner or designated agent with the Zoning Administrator on forms to be provided by the City.

**B.** The application shall be accompanied by a fee as established by City Council resolution.

**C.** The Zoning Administrator shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Chapter. In cases where the application is judged to be incomplete, the Zoning Administrator or their designee shall notify the applicant, in writing, of what information must be provided for the application to be deemed complete within 15 business days of the date of submission.

**D.** The Zoning Administrator's review shall be based upon the following factors:

**1.** Compliance with and effect upon the comprehensive plan and any public facilities plans.

**2.** The establishment, maintenance or operation of the use, event or activity will not be detrimental to or endanger the public health, safety, or welfare.

**3.** The establishment of the use, event or activity will not conflict with existing uses and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

**4.** Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.

**5.** The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located and to the performance standards as outlined in Section 11.17, Subdivision 4 of this Chapter and all other applicable provisions of this Chapter.

**E.** The Zoning Administrator shall make a determination on approval or denial of the administrative permit within 60 days from the date of submission of a complete application.

**F.** A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Chapter shall be attached to the permit.

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**G.** Determination of noncompliance with applicable codes, ordinances, and the standards in this Section shall be communicated to the applicant in writing and the application for the permit shall be considered denied.

**H.** Unresolved disputes as to administrative application of the requirements of this Section shall be subject to appeal as defined by Section 11.20 of this Chapter.

**Subd. 3. Information Requirement.**

The information required for all administrative permit applications shall include:

**A.** A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on site security, provisions for trash containment, provisions for on site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.

**B.** A copy of the approved site plan for the property or an "as built" survey which accurately represents existing conditions on the site, including entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands, and signs.

**C.** An accurate floor plan, when in the judgment of the Zoning Administrator, such a plan is necessary to properly evaluate the location of the event and the effectiveness of available entrances and exits.

**D.** Information identified in Section 11.15, Subdivision 4 of this Chapter, as may be applicable.

**Subd. 4. Performance Standards.**

All structures, uses, events or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such structure, use, event or activity is proposed, as well as the applicable standards in Section 11.17, Subdivision 4 of this Chapter.

**Subd. 5. Administration and Enforcement.**

**A.** The Zoning Administrator shall keep a record of applications and administrative permits.

**B.** A copy of all administrative permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.

**C.** Enforcement of the provisions of this section shall be in accordance with Section 11.15, Subdivision 1 and Subdivision 2 of this Chapter. Violation of an issued permit or of the provisions of this Section also shall be grounds for denial of future permit applications.

**Subd. 6. Certification of Taxes Paid.**

Prior to approving an application for an administrative permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the administrative permit application relates.

## SEC. 11.22. SITE PLAN REVIEW.

### Subd. 1. Purpose.

The purpose of this Section is to establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Chapter.

### Subd. 2. Exceptions to Review.

Except in those cases specifically cited within this Chapter, the following shall be exempt from the foregoing requirements of this Chapter:

**A.** Agricultural uses and developments.

**B.** Single-family detached dwellings.

**C.** Two-family attached dwellings.

### Subd. 3. Sketch Plan.

**A.** Prior to the formulation of a site plan, applicants may present a sketch plan to the Zoning Administrator prior to filing of a formal application. The plan shall be conceptual but shall be drawn to scale with topography and may include the following:

**1.** The proposed site with reference to existing development, topography, and drainage conditions on adjacent properties, at least to within 200 feet.

**2.** Natural features.

**3.** General location of existing and proposed structures including signs.

**4.** Tentative access, circulation and street arrangements, both public and private.

**5.** Amenities to be provided such as recreational areas, open space, walkways, landscaping, etc.

**6.** General location of parking areas.

**7.** Proposed public sanitary sewer, water and storm drainage.

**8.** A statement showing the proposed density of the project with the method of calculating said density also shown.

**9.** Extent of and any proposed modifications to land within the environmental protection districts as established by this Chapter.

**10.** Other items as may be deemed necessary by the Zoning Administrator.

**B.** Any opinions or comments provided to the applicant by the Zoning Administrator in relation to the sketch plan shall be considered advisory only and shall not constitute a binding decision on the request.

**Subd. 4. Procedure.**

Pursuant to Minnesota Statutes 15.99, an application for site plan approval shall be approved or denied within 60 days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant. Additional City requirements are as follows:

**A.** Filing of Request: Request for site plan approval, as provided within this Section, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. Such application shall also be accompanied by detailed written and graphic materials, the number and size as prescribed by the Zoning Administrator, fully explaining the proposed change, development, or use. The request shall be considered as being officially submitted and complete when the applicant has complied with all specified information requirements. In cases where an application is judged to be incomplete, the Zoning Administrator or their designee shall notify the applicant, in writing, of what information must be provided for the application to be deemed complete within 15 business days of the date of submission.

**B.** Proof of Ownership or Authorization: The applicant shall supply proof of title and the legal description of the property for which the site plan approval is requested, consisting of an abstract of title and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested site plan application.

**C.** Technical Reports: The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in conducting an evaluation of the request.

**D.** Additional Information: City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert assistance with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to evaluate the request and/or to establish performance conditions in relation to all pertinent sections of this Chapter. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

**E.** Meeting with Zoning Administrator and/or Staff: The applicant or a representative thereof shall meet with the Zoning Administrator and/or City staff in order to present information and answer questions concerning the proposed requests.

**F.** Decision: The Zoning Administrator shall reach a decision on the request within 60 days after the meeting at which the matter was officially submitted.

**Subd. 5. Certification of Taxes Paid.**

Prior to approving an application for a site plan review, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the site plan review application relates.

**Subd. 6. Evaluation Criteria.**

The Zoning Administrator shall evaluate the proposed site plan based upon compliance with the City comprehensive plan, provisions of this Chapter, and other applicable chapters of this Code.

**Subd. 7. Information Requirement.**

The information required for all site plan applications shall be as specified in Section 11.15, Subdivision 4 of this Chapter unless waived by the Zoning Administrator.

**Subd. 8. Plan Modifications.**

An amended site plan involving major changes as determined by the Zoning Administrator shall be applied for and administered as required for a new site plan.

**Subd. 9. Lapse of Approval.**

**A.** Unless otherwise specified by the Zoning Administrator, the site plan approval shall become null and void one year after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the approved plan. The property owner or applicant shall have the right to submit an application for time extension in accordance with this Section.

**B.** In making its determination on whether an applicant has made a good faith attempt to utilize the site plan approval, the Zoning Administrator shall consider such factors as the type, design, and size of the proposed construction, any applicable restrictions on financing, or special and/or unique circumstances beyond the control of the applicant which have caused the delay.

**C.** The request for an extension of site plan approval shall be determined by the Zoning Administrator within 15 days from the receipt of a complete request.

**Subd. 10. Building Codes.**

The review and approval of site improvements pursuant to the requirements of City adopted building and fire codes shall be in addition to the site plan review process established under this Chapter. The site plan approval process does not imply compliance with the requirements of these building and fire codes.

**Subd. 11. Plan Agreements.**

All site and construction plans officially submitted to the City shall be treated as a formal agreement between the applicant and the City. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard, or specifications without prior submission of a plan modification request to the Zoning Administrator for review and approval.

**Subd. 12. Plan Referral.**

The Zoning Administrator shall have the authority to refer a sketch plan or site plan to the Planning Commission and City Council for discussion, review, comment and approval. If the Zoning Administrator forwards the sketch plan or site plan to the Planning Commission and City Council for approval, the Planning Commission shall report its findings and make recommendations to the City Council. Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall make recorded findings of fact and may impose any condition it considers necessary to protect the public health, safety and welfare. Approval of a request shall require passage by a majority vote of the City Council.

**SEC. 11.23 - 11.24 RESERVED FOR FUTURE EXPANSION.**

## SEC. 11.25. ZONING DISTRICTS AND DISTRICT PROVISIONS.

### Subd. 1. Establishment of Districts.

In order to classify, regulate and restrict the location of trade and industry, and the location of buildings designated for specific uses, to protect residential uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards and open space within and surrounding such buildings, the city is hereby divided into Zoning Districts. The use, height and area regulations shall be uniform in each district, and said districts shall be known as:

**A.** Agricultural Districts.

**1.** AG Agricultural District.

**B.** Residential Districts.

**1.** R-1 Suburban Residential District.

**2.** R-2 Traditional Residential District.

**3.** R-3 Urban Residential District.

**4.** R-4 Multi-Family Residential District.

**C.** Commercial Districts.

**1.** C-1 Central Business District.

**2.** C-2 Highway Commercial District.

**3.** C-3 Neighborhood Commercial District

**D.** Industrial Districts.

**1.** I-1 Heavy Industrial District.

**2.** I-2 Light Industrial District

**3.** BP Business Park District

**E.** Special Districts.

**1.** RR Regional Recreation

**2.** PI Public/Institutional District

**3.** POS Parks and Open Space District.

**F.** Environmental Protection Districts.

**1.** FP Floodplain Management Overlay District.

**2.** SL Shoreland Management Overlay District

**Subd. 2. 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, and particularly except as hereinafter provided.

**B.** No buildings, structure, 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 greater percentage of lot area, to have narrower or smaller rear yard, front yard, side yard, or other open space, than herein required, or in any other manner contrary to the provisions of this Chapter.

**D.** No yard or lot existing on June 21, 2011 shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after June 21, 2011 shall meet at least the minimum requirements established by this Chapter.

**Subd. 3. Zoning District Boundaries.**

Zoning District boundary lines established by this Chapter generally follow lot lines, the centerlines of railroad right-of-ways, street right-of-ways, watercourses or the corporate limit lines, all as they exist on the effective date of this Chapter.

**A.** Appeals concerning the exact location of a zoning district boundary line shall be heard by the Planning Commission serving as the Board of Zoning Adjustment pursuant to Section 11.20 of this Chapter. In the case of interpretation of flood plain boundaries, the Board shall make the necessary interpretation based upon elevations on the regional flood profile and other available technical data.

**B.** Whenever any street, alley or other public way is vacated by official action of the City, the Zoning District adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

**C.** All streets, alleys, public ways and railroad right-of-ways, if not otherwise specifically designated, shall be deemed to be in the same zone as the property in the most restrictive classification immediately abutting upon such alleys, streets, public ways or railroad right-of-ways. Where the centerline of a street, alley, public way or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

**D.** All areas within the corporate limits of the City which are underwater and which are not shown as included within any zone shall be subject to all regulations of the zone which immediately adjoins such water area. If such water area adjoins two or more zones, the boundaries of each zone shall be construed to be extended into the water area in a straight line until they meet the other district at the halfway point and/or to the corporate limits. District 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. District boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed to follow such centerlines.

**Subd. 4. Zoning Map.**

**A.** The location and boundaries of the districts established by this Chapter are set forth on the Official Zoning Map entitled Pine Island Zoning Map. Said map, which is hereby incorporated as part of this Chapter, shall be on file with the Zoning Administrator, and hereinafter referred to as the"Zoning Map". Said map and all 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.

**B.** The Flood Plain Management Overlay District (FL) is based on the data contained in the Flood Insurance Study for Goodhue County, Minnesota and incorporated areas and Flood Insurance Rate Map Panels therein numbered 27049C0683E, 27049C0684E, 27049CO685E and 27049C0705E, all dated September 25, 2009, and prepared by the Federal Emergency Management Agency, and Flood Insurance Rate Map panel numbers 27109C0050D, 27109C0025D and 27109C0041D for Olmsted County, Minnesota and incorporated areas, dated April 17, 1995 and prepared by the Federal Emergency Management Agency. The Flood Insurance Study and the Flood Insurance Rate Map Panels are hereby adopted by reference and declared to be part of this Chapter.

**C.** All land hereafter annexed to the City which is not shown on the zoning map shall automatically, upon annexation, be classified within the AG Agricultural District and shall be subject to all regulations, notations, references and conditions as are applicable to said district until such time that a determination may be made as to the proper district classification for such land and an map amendment can be made to that effect.

**D.** It shall be the responsibility of the Zoning Administrator to maintain and amend said Zoning Map. The Zoning Administrator shall make any corrections or amendments to said Map after all of the procedures outlined in this chapter for the making of such revisions or amendments shall have been followed by the Planning Commission and the City Council.

**E.** Amendments to the Zoning Map shall be recorded on said Map within 15 days after adoption by the Council. The copy of the Official Zoning Map shall be kept on file in the office of the Zoning Administrator and shall be open to public inspection at all times during which the office of the Zoning Administrator is customarily open.

## SEC. 11.26. LOT REQUIREMENTS AND SETBACKS.

The following are the minimum requirements for lots and setbacks in each established zoning district. All requirements and setbacks are to be construed as indicating the minimum footages permitted unless otherwise specified.

| District | Lot Area | Lot Width | Lot Depth | Front Yard Setback | Rear Yard Setback | Side Yard Setback | Side Yard Setback Corner Lot | Maximum Ground Coverage | Maximum Height |
|---|---|---|---|---|---|---|---|---|---|
| Agricultural District (AG) | 40 acres | 660 feet | 660 feet | 30 feet | 30 feet | 10 feet | 30 feet | None | 2 1/2 stories or 35 feet |
| Suburban Residential District (R-1) | Interior lot: 9,000 sq ft Corner lot: 11,400 sq ft | Interior lot: 75 feet Corner lot: 95 feet | 120 feet | 25 feet | 25 feet | 10 feet | 25 feet | 30% | 2 1/2 stories or 35 feet |
| Traditional Residential District (R-2) | Single family interior lot: 4,500 sq ft Single family corner lot: 6,300 sq ft | Single family interior lot: 50 feet Single family corner lot: 70 feet | 90 feet | 20 feet | 20 feet | 5 feet | 20 feet | 40% | 2 1/2 stories or 35 feet |
| Urban Residential District (R-3) | Single family interior lot: 7,200 sq ft Single family corner lot: 9,600 sq ft Two family interior lot: 8,400 sq ft Two family corner lot: 10,800 sq ft | Single family interior lot: 60 feet Single family corner lot: 80 feet Two family interior lot: 70 feet Two family corner lot: 90 feet | 120 feet | 25 feet | 25 feet | 5 feet | 25 feet | 40% | 2 1/2 stories or 35 feet |
| Multiple Family Residential District (R-4) | Base lot area: 10,000 sq ft Two Family and townhome unit lots: The following minimum unit lot requirements shall be applied to the subdivision of two family dwellings or townhomes to | 100 feet | 100 feet | 30 feet | 30 feet or the height of the building whichever is greater | 10 feet | 30 feet | 45% | 3 stories or 40 feet whichever is less |

| District | Lot Area | Lot Width | Lot Depth | Front Yard Setback | Rear Yard Setback | Side Yard Setback | Side Yard Setback Corner Lot | Maximum Ground Coverage | Maximum Height |
|---|---|---|---|---|---|---|---|---|---|
| | permit individual private ownership of a single dwelling within such a structure:<br>1. Unit lot Area: Two family or townhome unit lots shall have sufficient lot area to include the living area, garages, decks, patios or porches of the individual dwelling units. | | | | | | | | |
| Central Business District (C-1) | None | None | None | None | 5 feet | None except 50 feet for any lot abutting a residential district | None | None | 3 stories or 40 feet |
| Highway Commercial District (C-2) | 20,000 sq ft | 100 feet | 100 feet | 30 feet | 30 feet except 50 feet for any building abutting a residential district | 20 feet except 50 feet for any building abutting a residential district | 30 feet | 75% | 3 stories or 40 feet, whichever is less |
| Neighbor-hood Commercial District (C-3) | 15,000 sq ft | 100 feet | 100 feet | 25 feet | 25 feet except 50 feet for any building abutting a residential district | 10 feet except 50 feet for any building abutting a residential district | 25 feet | 75% | 3 stories or 40 feet, whichever is less |
| Heavy Industrial District | 30,000 sq ft | 100 feet | 100 feet | 35 feet | 30 feet except 50 feet for | 20 feet except 50 feet for | 35 feet | 75% | 4 stories or 45 feet |

| District | Lot Area | Lot Width | Lot Depth | Front Yard Setback | Rear Yard Setback | Side Yard Setback | Side Yard Setback Corner Lot | Maximum Ground Coverage | Maximum Height |
|---|---|---|---|---|---|---|---|---|---|
| (I-1) | | | | | any building abutting a residential district | any building abutting a residential district | | | |
| Light Industrial District (I-2) | 15,000 sq ft | 100 feet | 100 feet | 30 feet | 30 feet except 50 feet for any building abutting a residential district | 20 feet except 50 feet for any building abutting a residential district | 30 feet | 75% | 4 stories or 45 feet |
| Business Park District (BP) | 40,000 sq ft | 150 feet | 150 feet | 35 feet | 30 feet except 50 feet for any building abutting a residential district | 20 feet except 50 feet for any building abutting a residential district | 35 feet | 75% | 4 stories or 45 feet |
| Regional Recreation District (RR) | 5 acres | 200 feet | 200 feet | 40 feet | 30 feet except 50 feet for any building abutting a residential district | 15 feet except 50 feet for any building abutting a residential district | 40 feet | 50% | 50 feet |
| Public/Institutional District (PI) | 20,000 sq ft | 100 feet | 100 feet | 30 feet | 30 feet | 10 feet | 30 feet | 75% | 3 stories or 40 feet |
| Parks and Open Space District (POS) | None | None | None | Parks, play-grounds, play fields, trails and open space: None Parks, play-grounds, play fields, trails and open space | Parks, play-grounds, play fields, trails and open space: None Parks, play-grounds, play fields, trails and open space | Parks, play-grounds, play fields, trails and open space: None Parks, play-grounds, play fields, trails and open space | Parks, play-grounds, play fields, trails and open space: None Parks, play-grounds, play fields, trails and open space | Parks, play-grounds, play fields, trails and open space: 25% | Three stories or 35 feet |

| District | Lot Area | Lot Width | Lot Depth | Front Yard Setback | Rear Yard Setback | Side Yard Setback | Side Yard Setback Corner Lot | Maximum Ground Coverage | Maximum Height |
|---|---|---|---|---|---|---|---|---|---|
| | | | | (buildings only): 30 feet All other uses: 30 feet | (buildings only): 30 feet All other uses: 30 feet | (buildings only): 10 feet All other uses: 10 feet | (buildings only): 30 feet All other uses: 30 feet | | |

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## SEC. 11.27. AGRICULTURAL DISTRICT (AG).

### Subd. 1. Purpose.

The purpose of the AG Agricultural District is to protect existing agricultural investments until such time as public utilities may be extended and there is a need for additional urban development. It is also intended to provide for larger lots to insure that the feasibility of future urban development is not compromised.

### Subd. 2. Permitted Uses.

**A.** Commercial feedlots, provided that no feedlot shall be located within 1,000 feet of a residential district.

**B.** Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**C.** Farms, hobby farms, agriculture, nurseries, wholesale nurseries, greenhouses, and tree farms not including animal feedlots regulated by Section 11.70, Subdivision 31 of this Chapter.

**D.** Golf courses and country clubs.

**E.** Parks, trails, playgrounds, recreation, open space and directly related buildings and structures.

**F.** Private stables.

**G.** Single-family detached dwellings.

**H.** State licensed residential care facility serving six or fewer persons in a single-family detached dwelling.

### Subd. 3. Accessory Uses.

**A.** Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim in this Section, subject to applicable regulation of this Chapter.

**B.** Administrative offices, meeting rooms, classroom, and food preparation and service areas in private and public recreational facilities, and the uses of which are incidental and directly related to the primary use.

**C.** Boarding or renting of rooms to not more than two individuals per dwelling unit.

**D.** Daycare facilities serving 14 or fewer persons in a single-family detached dwelling.

**E.** Fences.

**F.** Ground source heat pump systems as regulated by Section 11.73, Subdivision 4 of this Chapter.

**G.** Keeping of animals subject to Section 11.70, Subdivision 31 of this Chapter.

**H**. Private garages, carports, screen houses, swimming pools and storage buildings for use of occupants of the principal structures.

**I.** Private playground and recreational facilities, only accessory to an existing principal permitted use on the same lot and which are operated for the enjoyment and convenience of the residents of the principal use and their occasional guests, except as otherwise permitted.

**J.** Roadside stands for the sale of agricultural products.

**K.** Signs, subject to the standards in Section 11.71 of this Chapter.

**L.** Roof or Building Mounted SES, Ground Mounted SES and Community SES as regulated by section 11.73, subd. 3 of this chapter. (Amended Ord. No. 127, Second Series, 2-17-15)

**M.** Yard/garage sales, provided each does not exceed four days in duration, and there are no more than three sales per year conducted on the premises.

**Subd. 4. Conditional Uses.**

**A.** Home occupations.

**B.** Cemeteries and memorial gardens.

**C.** Agricultural products and livestock processing plants.

**D.** Commercial stables and riding academies.

**E.** Resort campgrounds.

**F**. Nursery and garden supplies.

**G.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**H.** Animal kennels provided that:

**1.** No animals shall be kept outside the building or be otherwise located so as to cause offensive odors discernible at the property line of lot on which the animals are kept.

**2.** The building in which animals are kept shall be at least 100 feet from the nearest property line.

**I.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**J.** Government buildings and structures necessary for the health, safety and general welfare of the City; public or quasi-public or private recreational buildings and neighborhood or community centers provided that:

**1.** The required side yard setback shall be a minimum 30 feet.

**2.** Screening and landscaping shall be installed and maintained along all public right-of-ways and along all lot lines adjacent to a residentially zoned district according to Section 11.70, Subdivision 7 of this Chapter.

**3.** All service drives shall be paved.

**K.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses**

**A.** Mining, sand and gravel operations.

**B.** Outdoor storage as a principal or nonrelated accessory use provided that:

**1.** A drainage plan for the site shall be approved by the City Engineer.

**2.** All outdoor storage area shall be located a minimum of 50 feet from any property line.

**3.** The outdoor storage area shall be fenced, screened and/or landscaped from view of neighboring residential uses, abutting residential districts and the public right-of-way according to a plan in compliance with Section 11.70, Subdivision 7 of this Chapter and subject to the approval of the Zoning Administrator.

**4.** The property stored shall not include any waste, except as provided in Section 11.70, Subdivision 6 of this Chapter.

**5.** The outdoor storage area shall not encroach into the required rear yard setback or side yard setback area if abutting a residential district.

**C.** Solar Farms as regulated by section 11.73, subd. 3 of this chapter. (Added Ord. No. 127, Second Series, 2-17-15)

**Subd. 6. Performance Standards.**

The following minimum requirements shall be observed in the AG Agricultural District subject to the additional requirements, exceptions and modifications set forth in this Chapter. All requirements and setbacks are to be construed as indicating the minimum footages permitted unless otherwise specified.

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the AG district shall exceed the following height:

**1.** Maximum Height - Three stories or 35 feet.

**B. Front Yard Regulations**.

**1**. Minimum Front Yard Setback - 30 feet.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - ten feet.

**2**. Minimum Rear Yard Setback - 30 feet.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1**. Minimum Lot Width - 660 feet

**2.** Minimum Lot Depth - 660 feet

**E**. **Lot Area Regulations**.

**1.** Minimum Lot Area - 40 acres

**F. Lot Coverage**. None.

**G. Minimum Floor Area**. Minimum floor area per dwelling unit shall be required as regulated in Section 11.70, Subdivision 32 of this Chapter.

**H. Residential Buffer Yards.** Residential buffer yards shall be required as regulated in Section 11.70, Subdivision 7, Letter D of this Chapter, on any lot when the front, side or rear yard of the lot abuts an arterial or regional collector street, as designated in the Pine Island Comprehensive Plan.

**I. Location of Structures**. Structures shall be located on each lot as to permit re-subdivision if and when municipal sanitary sewer and water systems become available if not available at the time of construction.

**J. General Requirements**. Additional requirements and other regulations for parking, signs, sewage systems are set forth in Section 11.70 of this Chapter.

**SEC. 11.28 - 11.30 RESERVED FOR FUTURE EXPANSION.**

## SEC. 11.31. SUBURBAN RESIDENTIAL DISTRICT (R-1).

### Subd. 1. Purpose.

The purpose of the R-1 Suburban Residential District is to provide for urban density single-family detached residential dwelling units and directly related, complementary uses in areas serviced by municipal urban services.

### Subd. 2. Permitted Uses.

**A.** Single Family dwelling unit.

**B**. Parks, trails, playgrounds, recreation, open space and directly related buildings and structures.

**C.** Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**D.** State licensed residential care facility serving six or fewer persons in a single-family detached dwelling.

### Subd. 3. Accessory Uses.

**A.** Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim in this Section, subject to applicable regulation of this Chapter.

**B**. Private garages, carports, screen houses, swimming pools and storage buildings for use of occupants of the principal structures.

**C.** Signs, subject to the standards in Section 11.71 of this Chapter.

**D.** Boarding or renting of rooms to not more than two individuals per dwelling unit.

**E.** Daycare facilities serving 14 or fewer persons in a single-family detached dwelling.

**F.** Fences.

**G.** Ground source heat pump systems as regulated by Section 11.73, Subdivision 4 of this Chapter.

**H.** Keeping of animals subject to Section 11.70, Subdivision 31 of this Chapter.

**I.** Administrative offices, meeting rooms, classroom, and food preparation and service areas in private and public recreational facilities, and the uses of which are incidental and directly related to the primary use.

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**J.** Private playground and recreational facilities, only accessory to an existing principal permitted use on the same lot and which are operated for the enjoyment and convenience of the residents of the principal use and their occasional guests, except as otherwise permitted.

**K.** Roof or Building Mounted SES, Ground Mounted SES and Community SES as regulated by section 11.73, subd. 3 of this chapter. (Amended Ord. No. 127, Second Series, 2-17-15)

**L.** Yard/garage sales, provided each does not exceed four days in duration, and there are no more than three sales per year conducted on the premises.

**Subd. 4. Conditional Uses.**

**A.** Bed and breakfast establishments.

**B.** Daycare facilities as a principal or an accessory use, except as provided for by this Chapter.

**C.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**D.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**E.** Cemeteries, memorial gardens and funeral homes.

**F.** Home occupations.

**G.** Government buildings and structures necessary for the health, safety and general welfare of the City; public or quasi-public or private recreational buildings and neighborhood or community centers provided that:

**1.** The required side yard setback shall be a minimum 30 feet.

**2.** Screening and landscaping shall be installed and maintained along all public right-of-ways and along all lot lines adjacent to a residentially zoned district according to Section 11.70, Subdivision 7 of this Chapter.

**3.** All service drives shall be paved.

**H.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**I.** Golf courses and country clubs.

**J.** Religious institutions such as churches, chapels, temples, and synagogues.

**Subd. 5. Interim Uses**

**A.** Temporary classroom type structure for use by public or private institutions.

**Subd. 6. Performance Standards.**

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the R-1 district shall exceed the following height:

**1.** Maximum Height - Three stories or 35 feet.

**B. Front Yard Regulations.**

**1.** Minimum Front Yard Setback - 25 feet.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - 10 feet.

**2**. Minimum Rear Yard Setback - 25 feet.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width Interior Lot - 75 feet.

**2.** Minimum Lot Width Corner Lot - 95 feet.

**3.** Minimum Lot Depth - 120 feet.

**E**. **Lot Area Regulations**.

**1.** Minimum Lot Area Interior Lot - 9,000 square feet.

**2.** Minimum Lot Area Corner Lot - 11,400 square feet.

**3.** Minimum Lot Area, Unsewered Lots. Lot sizes where public sewer is not available shall conform to the minimum requirements set forth below.

**(a)** Single Family.

**(1)** Except as herein provided, the minimum single-family lot size is 2.5 acres.

**(2)** The minimum lot size of 2.5 acres shall not apply to smaller separate parcels of record in separate ownership lawfully existing prior to June 21, 2011, provided that they comply with minimum standards for the district and that it can be demonstrated by means satisfactory to the City that the smaller parcels will not result in ground water, soil or other contamination which may endanger the public health.

**(b)** Prohibited Structures.

**(1)** Public or quasi-public or private recreational buildings and neighborhood or community centers; public and private educational institutions limited to accredited elementary, middle or junior high and senior high school.

**(2)** Religious institutions such as churches, chapels, temples, and synagogues, and other nongovernment institutional uses.

**(c)** Nonresidential Buildings and Uses. Subject to the other provisions of this Chapter, other uses, as allowed within the district, may be allowed on unsewered lots by conditional use permit, provided that:

**(1)** Except as herein provided, the minimum lot size for each principal use is 2.5 acres. The minimum lot size shall not apply to smaller separate parcels of record in separate ownership lawfully existing prior to June 21, 2011, provided the conditions of the conditional use permit are met.

**(2)** A conditional use permit shall not be granted unless it can be demonstrated by means satisfactory to the City that the use:

**(i)** Will not result in ground water, soil or other contamination which may endanger the public health.

**(ii)** Will not increase future City utility service demands and expense.

**(iii)** Will not jeopardize public safety and general welfare.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 30%.

**G. Minimum Floor Area**. Minimum floor area per dwelling unit shall be required as regulated in Section 11.70, Subdivision 32 of this Chapter.

**H. Residential Buffer Yards.** Residential buffer yards shall be required as regulated in Section 11.70, Subdivision 7, Letter D of this Chapter, on any lot when the front, side or rear yard of the lot abuts an arterial or regional collector street, as designated in the Pine Island Comprehensive Plan.

**I. Location of Structures**. Structures shall be located on each lot as to permit re-subdivision if and when municipal sanitary sewer and water systems become available if not available at the time of construction.

**J. General Requirements**. Additional requirements and other regulations for parking, signs, sewage systems are set forth in Section 11.70 of this Chapter.

## SEC. 11.32. TRADITIONAL RESIDENTIAL DISTRICT (R-2).

### Subd. 1. Purpose.

The purpose of the R-2 Traditional Residential District is to provide an area for the continuation of existing residential single-family development and development of existing single-family lots in the older residential areas where municipal urban services are available. The combination of small lots in encouraged.

### Subd. 2. Permitted Uses.

**A.** Any permitted use allowed in the R-l District.

### Subd. 3. Accessory Uses.

**A.** Any accessory uses permitted in the R-l District.

### Subd. 4. Conditional Uses.

**A**. Any conditional use permitted in the R-l District except golf courses and country clubs.

### Subd. 5. Interim Uses

A. Any interim use permitted in the R-1 District.

### Subd. 6. Performance Standards.

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the R-2 district shall exceed the following height:

**1.** Maximum Height - Three stories or 35 feet.

**B. Front Yard Regulations.**

**1.** Minimum Front Yard Setback - 20 feet.

**2.** The exception to these setback requirements is in a block where two or more residences have already been constructed facing the same street, the setbacks for the remaining lots in that block fronting on the same street shall be determined by the average setback of the existing buildings.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - 5 feet.

**2**. Minimum Rear Yard Setback - 20 feet.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width Interior Lot - 50 feet.

**2.** Minimum Lot Width Corner Lot - 70 feet.

**3.** Minimum Lot Depth - 90 feet.

**E**. **Lot Area Regulations**.

**1.** Minimum Lot Area Interior Lot - 4,500 square feet.

**2.** Minimum Lot Area Corner Lot - 6,300 square feet.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 40%.

**G. Minimum Floor Area**. Minimum floor area per dwelling unit shall be required as regulated in Section 11.70, Subdivision 32 of this Chapter.

**H. Residential Buffer Yards.** Residential buffer yards shall be required as regulated in Section 11.70, Subdivision 7, Letter D of this chapter, on any lot when the front, side or rear yard of the lot abuts an arterial or regional collector street, as designated in the Pine Island Comprehensive Plan.

**I. General Requirements**. Additional requirements and other regulations for parking, signs, sewage systems regulations are set forth in Section 11.70 of this Chapter.

## SEC. 11.33. URBAN RESIDENTIAL DISTRICT (R-3).

### Subd. 1. Purpose.

The purpose of the R-3 Urban Residential District is to provide for a transition in housing density and styles between low density single-family areas and medium to high density multiple family areas by providing for one and two unit dwellings and directly related, complementary uses in areas serviced by municipal urban services.

### Subd. 2. Permitted Uses.

**A.** Any permitted use allowed in the R-l District.

**B.** Two-family dwelling units.

### Subd. 3. Accessory Uses.

**A.** Any accessory uses permitted in the R-l District.

### Subd. 4. Conditional Uses.

**A.** Any conditional use permitted in the R-l District except golf courses and country clubs.

**B.** Manufactured home parks.

### Subd. 5. Interim Uses

**A.** Any interim use permitted in the R-1 District.

### Subd. 6. Performance Standards.

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the R-3 district shall exceed the following height:

**1.** Maximum Height - Three stories or 35 feet.

**B. Front Yard Regulations.**

**1.** Minimum Front Yard Setback - 25 feet.

**2.** The exception to these setback requirements is in a block where two or more residences have already been constructed facing the same street, the setbacks for the remaining lots in that block fronting on the same street shall be determined by the average setback of the existing buildings.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - 5 feet.

**2**. Minimum Rear Yard Setback - 25 feet.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1. Single Family Lot.**

**(a)** Minimum Lot Width Interior Lot - 60 feet.

**(b)** Minimum Lot Width Corner Lot - 80 feet.

**(c)** Minimum Lot Depth - 120 feet.

**2. Two-family Lot.**

**(a)** Minimum Lot Width Interior Lot - 70 feet.

**(b)** Minimum Lot Width Corner Lot - 90 feet.

**(c)** Minimum Lot Depth - 120 feet.

**E**. **Lot Area Regulations**.

**1.** Single Family Lot.

**(a)** Minimum Lot Area Interior Lot - 7,200 square feet.

**(b).** Minimum Lot Area Corner Lot - 9,600 square feet.

**2.** Two-Family Lot.

**(a)** Minimum Lot Area Interior Lot - 8,400 square feet.

**(b)** Minimum Lot Area Corner Lot - 10,800 square feet.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 40%.

**G. Minimum Floor Area**. Minimum floor area per dwelling unit shall be required as regulated in Section 11.70, Subdivision 32 of this Chapter.

**H. Residential Buffer Yards.** Residential buffer yards shall be required as regulated in Section 11.70, Subdivision 7, Letter D of this Chapter, on any lot when the front, side or rear yard of the lot abuts an arterial or regional collector street, as designated in the Pine Island Comprehensive Plan.

**I. General Requirements**. Additional requirements and other regulations for parking, signs, sewage systems are set forth in Section 11.70 of this Chapter.

**Subd. 7. Common Areas.**

The following minimum requirements shall be observed in the R-3 Urban Residential District governing common areas:

**A. Ownership.** All common areas within an R-3 Urban Residential District development not dedicated to the public including, but not limited to, open space, driveways, private drives, parking areas, play areas, etc., shall be owned in one of the following manners:

**1.** Condominium ownership pursuant to Minnesota Statutes 515A.1-106.

**2.** Two-family subdivision common areas shall be owned by the owners of each unit lot, with each owner of a unit having an equal and undivided interest in the common area.

**B. Homeowners' Association.** Homeowners' association: If a homeowners' association is established for two-family developments within the R-3 Urban Residential District, the homeowners' association shall be subject to review and approval of the City Attorney, and shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common when there is more than one individual property owner having interest within the development.

## SEC. 11.34. MULTI-FAMILY RESIDENTIAL DISTRICT (R-4).

### Subd. 1. Purpose.

The purpose of the R-4 Multi-Family Residential District is to provide for medium and high density housing (up to 16 units per acre) in multiple-family structures and directly related complementary uses in areas serviced by municipal urban services.

### Subd. 2. Permitted Uses.

**A.** Two-family dwelling units, including duplexes and twinhomes.

**B.** Townhouses, up to six units in a row or 12 units back to back.

**C.** Townhouses, Detached.

**D.** Multiple-family dwelling structures including apartments, condominiums, common interest communities and cooperatives.

**E.** Nursing homes.

**F.** Senior housing including assisted care living facilities or continuing care retirement communities.

**G.**

**H.** Parks, trails, playgrounds, recreation, open space and directly related buildings and structures.

**I.** Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

### Subd. 3. Accessory Uses.

**A.** Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim in this Section, subject to applicable regulation of this Chapter and only those accessory buildings, structures, or fences owned and maintained by a homeowners' association shall be erected on a common base lot for detached townhouse or two-family dwellings.

**B**. Private garages, carports, screen houses, swimming pools and storage buildings for use of occupants of the principal structures.

**C.** Signs, subject to the standards in Section 11.71 of this Chapter.

**D.** Boarding or renting of rooms to not more than two individuals per dwelling unit.

**E.** Daycare facilities serving 16 or fewer persons in a single-family detached dwelling.

**F.** Fences.

**G.** Ground source heat pump systems as regulated by Section 11.73, Subdivision 4 of this Chapter.

**H.** Keeping of animals subject to Section 11.70, Subdivision 31 of this Chapter.

**I.** Administrative offices, meeting rooms, classroom, and food preparation and service areas in private and public recreational facilities, and the uses of which are incidental and directly related to the primary use.

**J.** Private playground and recreational facilities, only accessory to an existing principal permitted use on the same lot and which are operated for the enjoyment and convenience of the residents of the principal use and their occasional guests, except as otherwise permitted.

**K.** Roof or Building Mounted SES, Ground Mounted SES and Community SES as regulated by section 11.73, subd. 3 of this chapter. (Amended Ord. No. 127, Second Series, 2-17-15)

**L.** Yard/garage sales, provided each does not exceed four days in duration, and there are no more than three sales per year conducted on the premises.

**Subd. 4. Conditional Uses.**

**A.** Cemeteries, memorial gardens and funeral homes.

**B.** Daycare facilities as a principal or an accessory use, except as provided for by this Chapter.

**C.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**D.** Government buildings and structures necessary for the health, safety and general welfare of the City; public or quasi-public or private recreational buildings and neighborhood or community centers provided that:

**1.** The required side yard setback shall be a minimum 30 feet.

**2.** Screening and landscaping shall be installed and maintained along all public right-of-ways and along all lot lines adjacent to a residentially zoned district according to Section 11.70, Subdivision 7 of this Chapter.

**3.** All service drives shall be paved.

**E.** Group homes.

**F.** Home occupations.

**G.** Manufactured home parks.

**H.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**I.** Religious institutions such as churches, chapels, temples, and synagogues.

**J.** State licensed residential care facilities serving 16 or fewer persons.

**K.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses**

**A.** Temporary classroom type structure for use by public or private institutions.

**Subd. 6. Performance Standards.**

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the R-4 district shall exceed the following height:

**1.** Maximum Height - The maximum height of all buildings shall not exceed three stories or 40 feet.

**B**. **Front Yard Regulations**.

**1.** Minimum Front Yard Setback - 30 feet.

**C. Side and Rear Yard Regulations**.

**1**. Minimum Side Yard Setback - 10 feet.

**2.** Minimum Rear Yard Setback - 30 feet.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**4.** No building shall be located closer than 30 feet from the R-1, R-2 and R-3 districts.

**D**. **Lot Width and Depth Regulations.**

**1.** Minimum Lot Width - 100 feet.

**2.** Minimum Lot Depth - 100 feet.

**E**. **Lot Area Regulations**.

**1.** Minimum Base Lot Area - 10,000 square feet.

**2.** Two-Family and townhome unit lots. The following minimum unit lot requirements shall be applied to the subdivision of two family dwellings or townhomes to permit individual private ownership of a single dwelling within such a structure:

**(a)** Unit Lot Area: Two family or townhome unit lots shall have sufficient lot area to include the living area, garages, decks, patios or porches of the individual dwelling units.

**3.** The maximum density shall be 16 units per acre.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 45%.

**G. Minimum Floor Area**. Minimum floor area per dwelling unit shall be required as regulated in Section 11.70, Subdivision 32 of this Chapter.

**H. Residential Buffer Yards.** Residential buffer yards shall be required as regulated in Section 11.70, Subdivision 7, Letter D of this Chapter, on any lot when the front, side or rear yard of the lot abuts an arterial or regional collector street, as designated in the Pine Island Comprehensive Plan.

**I. General Requirements**. Additional requirements for parking, signs, sewage systems and other regulations for multi-family dwelling units are set forth in Section 11.70 of this Chapter.

**Subd. 7. Common Areas.**

The following minimum requirements shall be observed in the R-4 Multiple-Family Residential District governing common areas:

**A. Ownership.** All common areas within an R-4 Multiple Family Residential District development not dedicated to the public including, but not limited to, open space, driveways, private drives, parking areas, play areas, etc., shall be owned in one of the following manners:

**1.** Condominium ownership pursuant to Minnesota Statutes 515A.1-106.

**2.** Two-family and townhome subdivision common areas shall be owned by the owners of each unit lot, with each owner of a unit having an equal and undivided interest in the common area.

**B. Homeowners' Association.** A homeowners' association shall be established for all two-family, townhome and multiple-family developments within the R-4 Multiple-Family Residential District, subject to review and approval of the City Attorney, and shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common when there is more than one individual property owner having interest within the development.

**Subd. 8. Building Design and Construction Standards.**

**A.** Unit Size: The size of dwelling units shall comply with the minimums established in Section 11.70, Subdivision 32 of this Chapter.

**B.** Unit Width: The minimum width of a dwelling unit within the R-4 Multiple Family Residential District shall be 25 feet.

**C.** Unit Construction:

**1.** Subdivision Requests: Building elevations and floor plans shall be furnished with subdivision requests illustrating exterior building material and colors to demonstrate compliance with Section 11.70, Subdivision 33 of this Chapter.

**2.** Decks or Porches: Provision shall be made for possible decks, porches or additions as part of the initial dwelling unit building plans. The unit lot shall be configured and sized to include decks or porches.

**3.** Minimum Overhang: In case of a gable roof, a minimum 12 inch soffit shall be required.

**4.** Townhome Exterior Building Finish: The exterior of townhome dwelling units shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure to create an architecturally balanced appearance. In addition, townhome dwelling structures shall comply with the following requirements:

**(a)** No townhome dwelling structure shall have more than 80% of the front building facade one type of exterior finish.

**(b)** For the purpose of this Subdivision:

**(1)** The area of the building facade shall not include area devoted to windows, entrance doors, garage doors, or roof areas.

**(2)** Variations in texture or style (i.e., lap siding versus shake shingle siding) shall be considered as different materials meeting the requirements of this Section.

**D.** Townhome Garages:

**1.** Each dwelling unit shall include an attached garage.

**2.** Garages shall comply with the following minimum size standards:

**(a)** For dwellings with basements: 440 square feet.

**(b)** For dwellings without basements: 540 square feet.

**(c)** Garages shall be a minimum of 20 feet in width.

**E.** Multiple-family Dwelling Exterior Building Finish: The exterior of multiple-family dwelling structures shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure to create an architecturally balanced appearance. In addition, multiple-family dwelling structures shall comply with the following requirements:

**1.** A minimum of 50% of the combined area of all building facades of a structure shall have an exterior finish of brick, stucco and/or natural or artificial stone.

**2.** For the purposes of this Section, the area of the building facade shall not include area devoted to windows, entrance doors, garage doors, or roof areas.

**SEC. 11.35 - 11.39 RESERVED FOR FUTURE EXPANSION.**

## SEC. 11.40. CENTRAL BUSINESS DISTRICT (C-l).

### Subd. 1. Purpose.

The purpose of the C-1 Central Business District is to encourage a viable downtown area which is intended to serve the entire city and be a diversified commercial center that offers the full range of comparison goods, sales and services, cultural, civic, and entertainment opportunities, financial and professional offices, and public uses as well as allowing residential uses to locate above the commercial establishments. Although this district relies on automobile traffic, the needs of pedestrians and bicyclists are deemed equally important. Pedestrian and bicycle linkages, landscaping, and appropriate amenities are important components of this district. The pedestrian orientation of buildings adjacent to sidewalks encourages parking in the rear yards and enhances the traditional character exemplified by historical central business districts. Zoning standards are intended to promote compatibility in form, function and style.

### Subd. 2. Permitted Uses.

**A**. Apartments, provided they are located above the first floor level.

**B.** Commercial establishments offering merchandise or services to the general public in return for compensation. Such establishment to include but not be limited to the following:

**1**. Retail establishments such as groceries, bakery, department stores, hardware, drug, clothing and furniture stores.

**2.** Personal services such as laundry, barber, shoe repair shop and photography studios.

**3.** Existing drinking establishments, including restaurants, cafes and supper clubs.

**4.** Professional services such as architects and attorneys offices.

**5.** Repair services such as jewelry and radio and television repair shops.

**6.** Banks, finance, insurance and real estate services.

**7.** Indoor commercial recreations such as, **e**ntertainment and amusement services such as motion picture theaters, bowling alleys, art galleries.

**8.** Lodging services such as hotel and motel.

**C.** Government and public utility buildings and structures necessary for the health, safety and general welfare of the City.

**D**. Private clubs and lodges.

**E**. Hospitals and medical and dental clinics.

**F**. Public garages, parking lots and bus stations.

**G**. Automobile and implement sales.

**H.** Funeral homes and mortuaries.

**I.** Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**Subd. 3. Accessory Uses.**

**A.** Commercial or business buildings and structures for a use accessory to the principal use but such use shall not exceed 30% of the gross floor space of the principal use.

**B.** Fences.

**C.** Ground source heat pump systems as regulated by Section 11.73, Subdivision 4 of this Chapter.

**D.** Off-street parking and off-street loading.

**E.** Signs, subject to the standards in Section 11.71 of this Chapter.

**F.** Roof or Building Mounted SES, Ground Mounted SES and Community SES as regulated by section 11.73, subd. 3 of this chapter. (Amended Ord. No. 127, Second Series, 2-17-15)

**Subd. 4. Conditional Uses.**

**A.** Auto body shops, auto glass, muffler and upholstery shops, tire recapping and supply stores, and indoor vehicle (automobiles, boats) storage for new or used vehicles (this does not include dismantling or wrecking), provided:

**1.** Not less than 25% of the lot, parcel or tract of land shall remain as landscaped green area according to the approved landscape plan.

**2.** The entire area other than occupied by buildings or structures or planting shall be surfaced with bituminous material or concrete which will control dust and drainage. The entire area shall have a perimeter curb barrier, a stormwater drainage system and is subject to the approval of the City Engineer.

**3.** The hours of operation shall be between 7:00 A.M. and 6:00 P.M. Evening hours of operation shall be subject to the approval of the City Council.

**4.** All painting must be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust or other particulate matter so that the use shall be in compliance with the state of Minnesota pollution control standards, Minnesota regulation APC 1-15, as amended.

**5.** The emission of odor by a use shall be in compliance with and regulated by the state of Minnesota pollution control standards, Minnesota regulation APC 7011, as amended.

**6.** All flammable materials, including liquids and rags, shall conform with the applicable provisions of the Minnesota uniform fire code.

**7.** All outside storage is prohibited. The storage of damaged vehicles, vehicles being repaired and vehicle parts and accessory equipment must be completely inside a principal or accessory building.

**8.** All conditions pertaining to a specific site are subject to change when the City Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served by modifying the conditions.

**B.** On and off-sale liquor establishments.

**C.** Daycare facilities as a principal or an accessory use, except as provided for by this chapter.

**D.** Commercial car washes (drive through, self-service and mechanical) provided that:

**1.** A car wash that is accessory to a convenience store/motor fuel facility shall be included as part of the principal building.

**2.** Magazine or stacking space is constructed to accommodate six vehicles per wash stall and shall be subject to the approval of the city engineer.

**3.** Magazine or stacking space must not interfere with on site circulation patterns or required on site parking or loading areas.

**4.** Parking or car magazine storage space shall be screened from view of abutting residential districts.

**5.** Provisions are made to control and reduce noise and special precautions shall be taken to limit the effects of noise associated with the car wash operation, dryer and vacuum machines.

**6.** The location and operation of vacuum machines must not interfere with magazines or stacking areas, on site circulation or on site parking and loading areas, and may not be located in a yard abutting residentially zoned property.

**7.** Untreated water from the car wash shall not be discharged into the storm sewer. If the water is to be pretreated and discharged into the storm sewer, the pretreatment plans shall be subject to review and approval of the City Engineer and building official, and subject to applicable requirements of metropolitan council environmental services and MPCA.

**E.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**F.** Fitness centers limited to 2,000 square feet of gross floor area or less provided that:

**1.** Adequate off-street parking and off-street loading shall be provided in compliance with Section 11.70, Subdivision 24 of this Chapter.

**2.** The total number of stations shall not exceed one per 100 square feet of gross floor area.

**3.** The use is located and developed so as not to create an incompatible operation problem with adjoining and neighboring commercial and/or residential uses.

**4.** Hours of operation shall be limited to 5:00 A.M. to 11:00 P.M. unless otherwise allowed by the City Council.

**G.** Nursing homes and residential care facilities provided that:

**1.** Side yards are double the minimum requirements established for this district and are screened in compliance with Section 11.70, Subdivision 7 of this Chapter.

**2.** Only the rear yard shall be used for recreational areas. Said area shall be fenced and controlled and screened in compliance with Section 11.70, Subdivision 7 of this Chapter.

**3.** All state laws and statutes governing such uses are strictly adhered to and all required operating permits are secured.

**H.** Religious institutions such as churches, chapels, temples, and synagogues.

**I.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**J.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses**

**A.** Buildings temporarily located for the purpose of construction.

**Subd. 6. Performance Standards.**

**A**. **Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the C-1 district shall exceed the following height:

**1.** Maximum Height - Three stories or 40 feet.

**B. Front Yard Regulations**.

**1**. Minimum Front Yard Setback - None.

**C. Side and Rear Yard Regulations**.

**1. Minimum** Side Yard Setback - None except that no building shall be located within 50 feet of any side lot line abutting a lot in any Residential District.

**2.** Minimum Rear Yard Setback - Five feet except that no building shall be located within 50 feet of any rear lot line abutting a lot in any Residential District.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width - None.

**2.** Minimum Lot Depth - None.

**E. Lot Area Regulations**.

**1.** Minimum Lot Area - None.

**F. Lot Coverage**. There shall be no lot coverage requirements for the C-1 district.

**G. Minimum Floor Area.** Commercial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a conditional use permit.

**H. Screening and Fencing**. The City may require the screening or fencing of any commercial side and rear yard which abuts a residential district.

**I. General Regulations**. Additional requirements and other regulations for signs, parking, shopping centers, and other regulations are set forth in Section 11.70 of this Chapter.

**Subd. 7. Building Design and Construction Standards.**

The architectural appearance and functional design of the building and site shall maintain a high standard of architectural and aesthetic compatibility with surrounding uses and shall comply with the building design and construction standards of Section 11.70, Subdivision 33 of this Chapter.

## SEC. 11.41. HIGHWAY COMMERCIAL DISTRICT (C-2).

### Subd. 1. Purpose.

The C-2 Highway Commercial District is designed and intended to promote the development of uses which require large concentration of automobile traffic. The district is also designed to accommodate those commercial activities which may be incompatible with the uses permitted in the C-1 Central Business District or C-3 Neighborhood Commercial District, and whose service is not confined to any one neighborhood community.

### Subd. 2. Permitted Uses.

**A**. Farm implement dealers.

**B.** Cafes and restaurants including drive-in restaurants.

**C.** Restaurant cocktails lounges and other eating and drinking establishments.

**D**. Motels and hotels.

**E.** Motor vehicle fuel sales and motor vehicle fuel sales including convenience grocery and/or prepared food.

**F.** Motor vehicle sales, including new and used automobiles, trucks, motorcycles, recreational vehicles and equipment, boats and marine sales, that involve open and outdoor sales and display areas larger than 30% of the area of the principal building provided that:

**1.** The outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district.

**2.** The architectural appearance, scale, building materials and functional plan of the site and building shall not be dissimilar to existing uses and buildings so as to cause a blighting influence.

**3.** The sales area is surfaced with bituminous material or concrete.

**4.** The sales area does not take up parking space as required for conformity to this Chapter.

**5.** Hours of operation shall be limited to 7:00 A.M. to 10:00 P.M. unless otherwise allowed by the City Council.

**6.** Accessory automobile repair shall require the processing of a separate conditional use permit.

**G.** Bait and sporting goods shops.

**H**. Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**I.** Ambulance service.

**J.** Appliance store, sales and storage.

**K**. Auction rooms.

**L**. Auto parts and accessory sales including outdoor display of auto accessories provided that such outdoor display or storage is separated from abutting development by ornamental fencing or screen planting.

**M.** Bank.

**N.** Beauty or barbershop.

**O.** Bicycle store.

**P.** Blueprinting, photostatting and lithographing.

**Q.** Bowling alley and billiard parlor.

**R.** Bus, railway, or airline depot or ticket office.

**S.** Catalog service and mail order house.

**T.** Private clubs or lodges.

**U.** Dance hall.

**V.** Diaper service.

**W**. Discount store.

**X.** Drugstore.

**Y.** Dry cleaning.

**Z.** Electric contractor.

**AA**. Exterminator.

**BB.** Floral sales.

**CC**. Fruit store.

**DD.** Furniture store.

**EE.** Government and public utility buildings and structures necessary for the health, safety and general welfare of the City.

**FF.** Grocery store.

**GG.** Gunsmith.

**HH.** Halls; rented for meetings, conventions, or social gatherings.

**II.** Hardware store.

**JJ.** Health equipment and supply store.

**KK.** Janitorial service.

**LL.** Laboratory; scientific and testing.

**MM.** Laundromat.

**NN.** Linen supply.

**OO.** Liquor store (off-sale).

**PP.** Locksmith.

**QQ.** Medical facilities including clinics, appliances, sales and fittings.

**RR.** Mortuary.

**SS.** Office Building.

**TT.** Paint and wallpaper store.

**UU.** Painting and decorating contractor.

**VV.** Pawn shop.

**WW.** Pet store.

**XX.** Photographic studio, picture processing, or equipment.

**YY.** Shopping centers.

**ZZ.** Plumbing contractor.

**AAA.** Printing, publishing, and allied industries.

**BBB.** Radio and television broadcasting (including transmitter and studios).

**CCC.** Second hand store.

**DDD.** Sign contractor.

**EEE.** Tailor.

**FFF.** Taxidermist.

**GGG.** Theatrical studio.

**HHH.** Upholstery shop of any type.

**III.** Variety store.

**Subd. 3. Accessory Uses.**

**A.** Any accessory uses permitted in the C-l District.

**B.** Roadside stands for the sale of agricultural products.

**C.** Roof or Building Mounted SES, Ground Mounted SES and Community SES as regulated by section 11.73, subd. 3 of this chapter. (Added Ord. No. 127, Second Series, 2-17-15)

**Subd. 4. Conditional Uses.**

**A.** Mobile home sales.

**B**. Auto body shops, auto glass, muffler and upholstery shops, tire recapping and supply stores, and indoor vehicle (automobiles, boats) storage for new or used vehicles (this does not include dismantling or wrecking), provided:

**1.** Not less than 25% of the lot, parcel or tract of land shall remain as landscaped green area according to the approved landscape plan.

**2.** The entire area other than occupied by buildings or structures or planting shall be surfaced with bituminous material or concrete which will control dust and drainage. The entire area shall have a perimeter curb barrier, a stormwater drainage system and is subject to the approval of the City Engineer.

**3.** The hours of operation shall be between 7:00 A.M. and 6:00 P.M. Evening hours of operation shall be subject to the approval of the City Council.

**4.** All painting must be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust or other particulate matter so that the use shall be in compliance with the state of Minnesota pollution control standards, Minnesota regulation APC 1-15, as amended.

**5.** The emission of odor by a use shall be in compliance with and regulated by the state of Minnesota pollution control standards, Minnesota regulation APC 7011, as amended.

**6.** All flammable materials, including liquids and rags, shall conform with the applicable provisions of the Minnesota uniform fire code.

**7.** All outside storage is prohibited. The storage of damaged vehicles, vehicles being repaired and vehicle parts and accessory equipment must be completely inside a principal or accessory building.

**8.** All conditions pertaining to a specific site are subject to change when the City Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served by modifying the conditions.

**C.** Commercial car washes (drive through, self-service and mechanical) provided that:

**1.** A car wash that is accessory to a convenience store/motor fuel facility shall be included as part of the principal building.

**2.** Magazine or stacking space is constructed to accommodate six vehicles per wash stall and shall be subject to the approval of the City Engineer.

**3.** Magazine or stacking space must not interfere with on site circulation patterns or required on site parking or loading areas.

**4.** Parking or car magazine storage space shall be screened from view of abutting residential districts.

**5.** Provisions are made to control and reduce noise and special precautions shall be taken to limit the effects of noise associated with the car wash operation, dryer and vacuum machines.

**6.** The location and operation of vacuum machines must not interfere with magazines or stacking areas, on site circulation or on site parking and loading areas, and may not be located in a yard abutting residentially zoned property.

**7.** Untreated water from the car wash shall not be discharged into the storm sewer. If the water is to be pretreated and discharged into the storm sewer, the pretreatment plans shall be subject to review and approval of the City Engineer and building official, and subject to applicable requirements of metropolitan council environmental services and MPCA.

**D.** Community or convention centers.

**E.** Daycare facilities as a principal or an accessory use, except as provided for by this Chapter.

**F.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**G.** Fitness centers and health clubs provided that:

**1.** Adequate off-street parking and off-street loading shall be provided in compliance with Section 11.70, Subdivision 24 of this Chapter.

**2.** The total number of stations shall not exceed one per 100 square feet of gross floor area.

**3.** The use is located and developed so as not to create an incompatible operation problem with adjoining and neighboring commercial and/or residential uses.

**4.** Hours of operation shall be limited to 5:00 A.M. to 11:00 P.M. unless otherwise allowed by the City Council.

**H.** Garden supplies and landscape nursery.

**I.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**J.** Religious institutions such as churches, chapels, temples, and synagogues.

**K.** Theaters, indoor

**L.** Veterinary clinics provided that:

**1.** All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties.

**2.** Animal carcasses are properly disposed of in a manner not utilizing on site garbage facilities or incineration and the carcasses are properly refrigerated during periods prior to disposal.

**M.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses.**

**A.** Buildings temporarily located for the purpose of construction.

**Subd. 6. Performance Standards.**

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the C-1 district shall exceed the following height:

**1.** Maximum Height - Four stories or 45 feet.

**B**. **Front Yard Regulations**.

**1**. Minimum Front Yard Setback - 30 feet.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - 20 feet except that no building shall be located within 50 feet of any side lot line abutting a lot in any Residential District.

**2**. Minimum Rear Yard Setback - 30 feet except that no building shall be located within 50 feet of any rear lot line abutting a lot in any Residential District.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width - 100 feet.

**2.** Minimum Lot Depth - 100 feet.

**E. Lot Area Regulations**.

**1.** Minimum Lot Area - 20,000 square feet.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 75%.

**G. Minimum Floor Area.** Commercial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a conditional use permit.

**H. Screening and Fencing**. The City may require the screening or fencing of any commercial side and rear yard which abuts a residential district.

**I. General Standards**. Additional requirements and other regulations for signs, parking, shopping centers, and other regulations are set forth in Section 11.70 of this Chapter.

**Subd. 7. Building Design and Construction Standards.**

The architectural appearance and functional design of the building and site shall maintain a high standard of architectural and aesthetic compatibility with surrounding uses and shall comply with the building design and construction standards of Section 11.70, Subdivision 33 of this Chapter.

## SEC. 11.42. NEIGHBORHOOD COMMERCIAL DISTRICT (C-3).

### Subd. 1. Purpose.

The purpose of the C-3 Neighborhood Commercial District is to provide for the establishment of limited scale, low-intensity neighborhood commercial centers that offer basic convenience type goods and service oriented uses for the immediately surrounding residential neighborhoods. Immediate surrounding residential neighborhoods are understood to be those that are generally within a five to ten minute walking distance of a neighborhood commercial area.

### Subd. 2. Permitted Uses.

**A**. Bank, savings and loan, savings credit unions and other financial institutions.

**B.** Funeral homes and mortuaries.

**C.** Government and public utility buildings and structures necessary for the health, safety and general welfare of the City.

**D.** Office businesses.

**E.** On site service businesses.

**F.** Public garages and parking lots.

**G.** Restaurants, takeout/delivery only.

**H.** Retail businesses.

**I.** Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

### Subd. 3. Accessory Uses.

**A**. Any accessory uses permitted in the C-2 District.

### Subd. 4. Conditional Uses.

**A**. Commercial car washes (drive through, self-service and mechanical) provided that:

**1.** A car wash that is accessory to a convenience store/motor fuel facility shall be included as part of the principal building.

**2.** Magazine or stacking space is constructed to accommodate six vehicles per wash stall and shall be subject to the approval of the City Engineer.

**3.** Magazine or stacking space must not interfere with on site circulation patterns or required on site parking or loading areas.

**4.** Parking or car magazine storage space shall be screened from view of abutting residential districts.

**5.** Provisions are made to control and reduce noise and special precautions shall be taken to limit the effects of noise associated with the car wash operation, dryer and vacuum machines.

**6.** The location and operation of vacuum machines must not interfere with magazines or stacking areas, on site circulation or on site parking and loading areas, and may not be located in a yard abutting residentially zoned property.

**7.** Untreated water from the car wash shall not be discharged into the storm sewer. If the water is to be pretreated and discharged into the storm sewer, the pretreatment plans shall be subject to review and approval of the city engineer and building official, and subject to applicable requirements of metropolitan council environmental services and MPCA.

**B.** Daycare facilities as a principal or an accessory use, except as provided for by this Chapter.

**C.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**D.** Fitness centers limited to 2,000 square feet of gross floor area or less provided that:

**1.** Adequate off street parking and off street loading shall be provided in compliance with Section 11.70, Subdivision 24 of this Chapter

**2.** The total number of stations shall not exceed one per 100 square feet of gross floor area.

**3.** The use is located and developed so as not to create an incompatible operation problem with adjoining and neighboring commercial and/or residential uses.

**4.** Hours of operation shall be limited to five o'clock (5:00) A.M. to eleven o'clock (11:00) P.M. unless otherwise allowed by the City Council.

**E.** Motor vehicle fuel sales and motor vehicle fuel sales including convenience grocery and/or prepared food.

**F.** Religious institutions such as churches, chapels, temples, and synagogues.

**G.** Veterinary clinics provided that:

**1.** All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties.

**2.** Animal carcasses are properly disposed of in a manner not utilizing on site garbage facilities or incineration and the carcasses are properly refrigerated during periods prior to disposal.

**H.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**I.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses**

**A.** Buildings temporarily located for the purpose of construction.

**Subd. 6. Performance Standards.**

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the C-3 district shall exceed the following height:

**1.** Maximum Height - Three stories or 40 feet.

**B**. **Front Yard Regulations**.

**1**. Minimum Front Yard Setback - 25 feet.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - 20 feet except that no building shall be located within 50 feet of any side lot line abutting a lot in any Residential District.

**2**. Minimum Rear Yard Setback - 25 feet except that no building shall be located within 50 feet of any rear lot line abutting a lot in any Residential District.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width - 100 feet.

**2.** Minimum Lot Depth - 100 feet.

**E. Lot Area Regulations**.

**1.** Minimum Lot Area - 15,000 square feet.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 75%.

**G. Minimum Floor Area.** Commercial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a conditional use permit.

**H. Screening and Fencing**. The City may require the screening or fencing of any commercial side and rear yard which abuts a residential district.

**I. General Standards**. Additional requirements and other regulations for signs, parking, shopping centers, and other regulations are set forth in Section 11.70 of this Chapter.

**Subd. 7. Building Design and Construction Standards.**

The architectural appearance and functional design of the building and site shall maintain a high standard of architectural and aesthetic compatibility with surrounding uses and shall comply with the building design and construction standards of Section 11.70, Subdivision 33 of this Chapter.

**SEC. 11.43 - 11.49 RESERVED FOR FUTURE EXPANSION.**

## SEC. 11.50. HEAVY INDUSTRIAL DISTRICT (I-1).

### Subd. 1. Purpose.

The purpose of the I-1 Heavy Industrial District is to provide an area for industrial uses in locations remote from residential uses and in which urban services and adequate transportation exist.

### Subd. 2. Permitted Uses.

**A**. Wholesale business establishments.

**B.** Warehousing, including self-storage and packing and crating establishments.

**C.** Transportation terminals.

**D**. Contractors' shops, roofing, electrical, paper-hanging, ventilating, welding, upholstering, fencing, building.

**E**. Storage yards for building material, coal, wood and ice, including building materials sales.

**F.** Laboratories, research and development facilities.

**G.** Public and private utility uses.

**H.** Manufacturing.

**I**. Trade schools.

**J**. Offices.

**K**. Animal clinics.

**L.** Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**M.** Automobile repair.

**N.** Commercial printing establishments.

**O.** Compounding, assembly, packaging, treatment, or storage of products and materials except waste.

**P.** Government and public utility buildings and structures necessary for the health, safety and general welfare of the City.

**Q.** Office, general.

**R.** Servicing of motor freight vehicles and heavy construction equipment; directly related accessory materials and parts sales for such repair and servicing (not including new or used vehicle sales); and accessory materials and parts warehousing which is related to and dependent upon such uses, provided that:

**1.** All servicing of vehicles and equipment shall occur entirely within the principal structure.

**2.** To the extent required by state law and regulations, painting shall be conducted in an approved paint booth, which thoroughly controls the emission of fumes, dust, or other particulate matter.

**3.** Storage and use of all flammable materials, including liquids and rags, shall conform with applicable provisions of the Minnesota Uniform Fire Code.

**4.** Parking, driveway, and circulation standards and requirements shall be subject to the review and approval of the City Engineer and shall be based upon the specific needs of the operation and shall accommodate large vehicle equipment and semitrailer/tractor trucks.

**5.** The storage of damaged vehicles and vehicle parts and accessory equipment must be completely inside a principal or accessory building.

**6.** The sale of products other than those specifically mentioned in this Subsection shall be subject to a separate conditional use permit.

**Subd. 3. Accessory Uses.**

**A.** Essential security and safety facilities as approved by the Council.

**B.** Commercial or business building and structures for a use accessory to the principal use but such use shall not exceed 30% of the gross floor area of the principal use.

**C.** Fences.

**D.** Ground source heat pump systems as regulated by Section 11.73, Subdivision 4 of this Chapter.

**E.** Off-street parking and off-street loading as regulated by Section 11.70, Subdivision 24 of this Chapter.

**F.** Signs, subject to the standards in Section 11.71 of this Chapter.

**G.** Roof or Building Mounted SES, Ground Mounted SES and Community SES as regulated by section 11.73, subd. 3 of this chapter. (Amended Ord. No. 127, Second Series, 2-17-15)

**Subd. 4. Conditional Uses.**

**A**. Dwellings for watchmen or custodians of industrially used property only.

**B**. Outdoor storage of vehicles or materials or open sales lot.

**C**. Restaurants, lunch counters, confectioneries to serve the employees of the district.

**D.** Manufacturing, refining and processing of chemicals.

**E.** Animal kennels provided that:

**1.** No animals shall be kept outside the building or be otherwise located so as to cause offensive odors discernible at the property line of lot on which the animals are kept.

**2.** The building in which animals are kept shall be at least 100 feet from the nearest property line.

**F.** Crude oil, gasoline or other liquid storage tanks.

**G.** Daycare facilities as an accessory use, except as provided for by this chapter.

**H.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**I.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**J.** Adult use businesses.

**K.** Truck/car washes (automatic mechanical drive-through only) as an accessory use associated with a truck stop, provided:

**1.** The accessory car/truck wash must be on the same parcel of record as the truck stop.

**2.** Magazine or stacking space is constructed to accommodate six vehicles per wash stall and shall be subject to the approval of the City Engineer.

**3.** Magazine or stacking space must not interfere with on site circulation patterns or required on site parking or loading areas.

**4.** Parking or car/truck magazine storage space shall be screened from view of abutting residential districts.

**5.** The location and operation of vacuum machines must not interfere with magazines or stacking areas, on site circulation or on site parking and loading areas.

**6.** Provisions are made to control and reduce noise and special precautions shall be taken to limit the effects of noise associated with vacuum machines. Additionally, the garage doors must remain closed during the operation of the car/truck wash.

**7.** Untreated water from the car/truck wash shall not be discharged into the storm sewer. If the water is to be pretreated and discharged into the storm sewer, the pretreatment plans shall be subject to review and approval of the City Engineer and building official.

**L.** Truck stops.

**M.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses.**

**A.** Buildings temporarily located for the purpose of construction.

**B.** Outdoor service, sale and rental as a principal or accessory use, provided that:

**1.** Outside services, sales and equipment rental connected with the principal use is limited to 30% of the gross floor area of the principal use.

**2.** Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district.

**3.** To control dust the sales area is surfaced with asphalt, concrete or pavers with perimeter concrete curb, unless the City Engineer exempts all or portions of the curb for stormwater management purposes.

**4.** The sales area shall not encroach upon required parking space or required loading space as required by Section 11.70, Subdivision 24 of this Chapter.

**5.** The interim use permit shall terminate upon a change of occupancy or other date as determined by the City Council in accordance with Section 11.18, Subdivision 6 of this Chapter.

**6.** The outdoor storage area shall not encroach into the required rear yard or side yard setback area if abutting a residential district.

**C.** Outdoor storage as a principal use provided that:

**1.** The outdoor storage area shall be fenced, screened and/or landscaped from view of neighboring residential uses, abutting residential districts and the public right-of-way according to a plan and subject to the approval of the Zoning Administrator.

**2.** The outdoor storage area occupies space other than a required front yard setback or side yard setback area abutting the right-of-way on a corner lot.

**3.** The outdoor storage area is surfaced with asphalt, concrete or pavers with perimeter concrete curb, unless the city engineer exempts all or portions of the curb for stormwater management purposes.

**4.** The outdoor storage area shall not encroach upon required parking space or required loading space as required by Section 11.70, Subdivision 24 of this Chapter.

**5.** The property stored does not include any waste.

**6.** All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences.

**7.** The outdoor storage area shall not encroach into the required rear yard or side yard setback area if abutting a residential district.

**8.** The interim use permit shall terminate upon a change of occupancy or other date as determined by the City Council in accordance with Section 11.18, Subdivision 6 of this Chapter.

**D.** Solar Farms as regulated by section 11.73, subd. 3 of this chapter. (Added Ord. No. 127, Second Series, 2-17-15)

**Subd. 6. Performance Standards.**

**A**. **Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the C-3 district shall exceed the following height:

**1.** Maximum Height - Four stories or 45 feet.

**B. Front Yard Regulations**.

**1**. Minimum Front Yard Setback - 35 feet.

**C**. **Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - 20 feet except that no building shall be located within 50 feet of any side lot line abutting a lot in any Residential District.

**2**. Minimum Rear Yard Setback - 30 feet except that no building shall be located within 50 feet of any rear lot line abutting a lot in any Residential District.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width - 100 feet.

**2.** Minimum Lot Depth - 100 feet.

**E. Lot Area Regulations**.

**1.** Minimum Lot Area - 30,000 square feet.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 75%.

**G. Minimum Floor Area.** Industrial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a conditional use permit.

**H. Screening and Fencing**. The City may require the screening or fencing of any industrial side and rear yard which abuts a residential district.

**I. General Regulations**. Additional requirements and other regulations related to signs, parking, etc. are set forth in Section 11.70 of this Chapter.

**Subd. 7. Building Design and Construction Standards.**

The architectural appearance and functional design of the building and site shall maintain a high standard of architectural and aesthetic compatibility with surrounding uses and shall comply with the building design and construction standards of Section 11.70, Subdivision 33 of this Chapter.

## SEC. 11.51. LIGHT INDUSTRIAL DISTRICT (I-2).

### Subd. 1. Purpose.

The purpose of the I-2 Light Industrial District is to provide for and area for industrial, light manufacturing, and office uses which are generally not obtrusive and which may serve as a transition between more intensive sites and residential and business land uses.

### Subd. 2. Permitted Uses.

**A.** Building materials sales.

**B.** Commercial printing establishments.

**C.** Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**D.** Compounding, assembly, packaging, treatment, or storage of products and materials except waste.

**E.** Government and public utility buildings and structures necessary for the health, safety and general welfare of the City.

**F.** Laboratories, research and development facilities.

**G.** Manufacturing.

**H.** Office, general.

**I.** Trade schools.

**J.** Transportation terminals.

**K.** Warehousing, including self-storage facilities.

**L.** Wholesale businesses.

### Subd. 3. Accessory Uses.

**A.** Any accessory uses permitted in the I-l District.

### Subd. 4. Conditional Uses.

**A.** Animal kennels provided that:

**1.** No animals shall be kept outside the building or be otherwise located so as to cause offensive odors discernible at the property line of lot on which the animals are kept.

**2.** The building in which animals are kept shall be at least 100 feet from the nearest property line.

**B**. Auto body shops, auto glass, muffler and upholstery shops, tire recapping and supply stores, and vehicle (automobiles, boats) storage for new or used vehicles (this does not include dismantling or wrecking), provided:

**1.** Not less than 25% of the lot, parcel or tract of land shall remain as landscaped green area according to the approved landscape plan.

**2.** The entire area other than occupied by buildings or structures or planting shall be surfaced with bituminous material or concrete which will control dust and drainage. The entire area shall have a perimeter curb barrier, a stormwater drainage system and is subject to the approval of the City Engineer.

**3.** The hours of operation shall be between 7:00 A.M. and 6:00 P.M. Evening hours of operation shall be subject to the approval of the City Council.

**4.** All painting must be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust or other particulate matter so that the use shall be in compliance with the state of Minnesota pollution control standards, Minnesota regulation APC 1-15, as amended.

**5.** The emission of odor by a use shall be in compliance with and regulated by the state of Minnesota pollution control standards, Minnesota regulation APC 7011, as amended.

**6.** All flammable materials, including liquids and rags, shall conform with the applicable provisions of the Minnesota uniform fire code.

**7.** All outside storage is prohibited. The storage of damaged vehicles, vehicles being repaired and vehicle parts and accessory equipment must be completely inside a principal or accessory building.

**8.** All conditions pertaining to a specific site are subject to change when the City Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served by modifying the conditions.

**C.** Commercial recreation facilities, provided that:

**1.** The architectural appearance and function plan of the building and the site shall be designed with a high standard of architectural and aesthetic compatibility with surrounding properties. Building materials, orientation, colors, height, roof design, lighting, signage and site landscaping shall be designed to complement the surrounding industrial properties and demonstrate potential industrial reuse. All sides of the principal and accessory structures are to have essentially the same or a coordinated, harmonious exterior finish treatment.

**2.** A commercial recreational use in a shared tenancy building shall have its own exterior entrance and exit.

**D.** Daycare facilities as an accessory use, except as provided for by this Chapter.

**E.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**F.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**G.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses**

**A.** Any interim uses permitted in the I-l District.

**Subd. 6. Performance Standards.**

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the I-2 district shall exceed the following height:

**1.** Maximum Height - Four stories or 45 feet.

**B**. **Front Yard Regulations**.

**1**. Minimum Front Yard Setback - 30 feet.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - 20 feet except that no building shall be located within 50 feet of any side lot line abutting a lot in any Residential District.

**2**. Minimum Rear Yard Setback - 30 feet except that no building shall be located within 50 feet of any rear lot line abutting a lot in any Residential District.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width - 100 feet.

**2.** Minimum Lot Depth - 100 feet.

**E**. **Lot Area Regulations**.

**1.** Minimum Lot Area - 15,000 square feet.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 75%.

**G. Minimum Floor Area.** Industrial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a conditional use permit.

**H. Screening and Fencing**. The City may require the screening or fencing of any industrial side and rear yard which abuts a residential district.

**I. General Standards**. Additional requirements and other regulations related to signs, parking, etc. are set forth in Section 11.70 of this Chapter.

**Subd. 7. Building Design and Construction Standards.**

The architectural appearance and functional design of the building and site shall maintain a high standard of architectural and aesthetic compatibility with surrounding uses and shall comply with the building design and construction standards of Section 11.70, Subdivision 33 of this Chapter.

## SEC. 11.52. BUSINESS PARK DISTRICT (BP).

### Subd. 1. Purpose.

The purpose of the BP Business Park District is to provide areas for the development of office, business and light industrial uses meeting high standards of design and construction and having close proximity to major transportation corridors and/or other industrial districts

### Subd. 2. Permitted Uses.

**A.** Commercial printing establishments.

**B.** Conference centers.

**C.** Hotels.

**D.** Indoor commercial recreation.

**E.** Laboratories, research and development facilities.

**F.** Office businesses.

**G.** Trade and post-secondary schools.

**H.** Wholesale showrooms.

**I.** Government and public utility buildings and structures necessary for the health, safety and general welfare of the City.

**J.** Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

### Subd. 3. Accessory Uses.

**A.** Any accessory uses permitted in the I-l District.

### Subd. 4. Conditional Uses.

**A.** Commercial recreation facilities, provided that:

**1.** The architectural appearance and function plan of the building and the site shall be designed with a high standard of architectural and aesthetic compatibility with surrounding properties. Building materials, orientation, colors, height, roof design, lighting, signage and site landscaping shall be designed to complement the surrounding industrial properties and demonstrate potential industrial reuse. All sides of the principal and accessory structures are to have essentially the same or a coordinated, harmonious exterior finish treatment.

**2.** A commercial recreational use in a shared tenancy building shall have its own exterior entrance and exit.

**B.** Compounding, assembly, or packaging of products and materials, provided that:

**1.** The proposed use is not a waste facility.

**C.** Fitness centers and health clubs provided that:

**1.** Adequate off-street parking and off-street loading shall be provided in compliance with Section 11.70, Subdivision 24 of this Chapter.

**2.** The total number of stations shall not exceed one per 100 square feet of gross floor area.

**3.** The use is located and developed so as not to create an incompatible operation problem with adjoining and neighboring commercial and/or residential uses.

**4.** Hours of operation shall be limited to 5:00 A.M. to 11:00 P.M. unless otherwise allowed by the City Council.

**D.** Hospitals.

**E.** Indoor limited retail sales and service accessory to office/manufacturing uses, provided that:

**1.** Location:

**(a)** All sales are conducted in a clearly defined area of the principal building reserved exclusively for retail sales. Said sales area must be physically segregated from other principal activities in the building.

**(b)** The retail sales area must be located on the ground floor of the principal building.

**2.** Sales Area: The retail sales and service activity shall not occupy more than 15% of the gross floor area of the building.

**3.** Access: The building where such use is located has access without the necessity of using residential streets.

**4.** Hours: Hours of operation are limited to 6:00 A.M. to 10:00 P.M.

**F.** Warehousing and self-storage facilities, provided that:

**1.** The proposed use is not a waste facility.

**G.** Daycare facilities as a principal or an accessory use, except as provided for by this Chapter.

**H.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**I.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**J.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses.**

**A.** Buildings temporarily located for the purpose of construction.

**Subd. 6. Performance Standards.**

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the BP district shall exceed the following height:

**1.** Maximum Height - Four stories or 45 feet.

**B**. **Front Yard Regulations**.

**1**. Minimum Front Yard Setback - 35 feet.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - 20 feet except that no building shall be located within 50 feet of any side lot line abutting a lot in any Residential District.

**2**. Minimum Rear Yard Setback - 30 feet except that no building shall be located within 50 feet of any rear lot line abutting a lot in any Residential District.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width - 150 feet.

**2.** Minimum Lot Depth - 150 feet.

**E. Lot Area Regulations**.

**1.** Minimum Lot Area - 40,000 square feet.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 75%.

**G. Minimum Floor Area.** Industrial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a conditional use permit.

**H. Screening and Fencing**. The City may require the screening or fencing of any business park side and rear yard which abuts a residential district.

**I. General Standards**. Additional requirements and other regulations related to signs, parking, etc. are set forth in Section 11.70 of this Chapter.

**Subd. 7. Building Design and Construction Standards.**

The architectural appearance and functional design of the building and site shall maintain a high standard of architectural and aesthetic compatibility with surrounding uses and shall comply with the building design and construction standards of Section 11.70, Subdivision 33 of this Chapter.

**SEC. 11.53 - 11.54 RESERVED FOR FUTURE EXPANSION.**

## SEC. 11.55. REGIONAL RECREATION DISTRICT (RR).

### Subd. 1. Purpose.

The purpose of the RR Regional Recreation District is to create a high quality environment for large amusement and recreation attractions with a regional draw, with a high degree of land use compatibility and street efficiency. It is further the intent of the zone to protect existing landscape features, to preserve open space, to sensitively integrate development with the natural landscape, and to require the planning of entire land ownerships as a unit rather than permit piecemeal or scattered small developments.

### Subd. 2. Permitted Uses.

**A.** Amphitheater as a permanent use.

**B.** Athletic club.

**C.** Conference/banquet facility.

**D.** Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**E.** Health club and/or spa.

**F.** Governmental utility buildings, public maintenance buildings and structures necessary for the health, safety and general welfare of the community.

**G.** Mini-golf.

**H.** Playground, indoor or outdoor.

**I.** Public civic or cultural buildings, such as libraries, public administration buildings, fire stations and police department buildings.

**J.** Swimming pools, indoor or outdoor.

**K.** Tennis club.

**L.** Water park, indoor.

### Subd. 3. Accessory Uses.

**A.** Accessory uses and buildings incidental and customary to uses allowed as permitted, conditional and interim in this Section.

**B.** Decorative landscape features.

**C.** Fences.

**D.** Ground source heat pump systems as regulated by Section 11.73, Subdivision 4 of this Chapter.

**E.** Limited retail sales complementary to the permitted uses.

**F.** Off-street parking and off-street loading as regulated by Section 11.70, Subdivision 24 of this Chapter.

**G.** Signs, subject to the standards in Section 11.71 of this Chapter.

**H.** Roof or Building Mounted SES, Ground Mounted SES and Community SES as regulated by section 11.73, subd. 3 of this chapter. (Amended Ord. No. 127, Second Series, 2-17-15)

**Subd. 4. Conditional Uses.**

**A.** Athletic facilities.

**B.** Commercial amusement, entertainment and recreation.

**C.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**D.** Golf courses and country clubs.

**E.** Hotels, motels and conference centers.

**F.** Indoor motorized go-carts.

**G.** Paintball.

**H.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**I.** Public civic auditoriums, indoor recreation centers, arenas, stadiums or other facilities with an event seating capacity of more than 300 persons.

**J.** Restaurants subject to the following requirements:

**1.** Shall comply with all applicable provisions in the City Code, including, but not limited to Section 11.70, Performance Standards.

**2.** Trash receptacles, including but not limited to dumpsters, shall be stored in fully enclosed areas. The enclosed areas shall be constructed of similar and/or complementary materials to the principal structure and meet the standards of the City Code.

**3.** If located within 100 feet of a residential district, its hours of operation shall be limited to between 5:00 AM and 11:00 PM.

**K.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses.**

**A.** Buildings temporarily located for the purpose of construction.

**Subd. 6. Performance Standards.**

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the PI district shall exceed the following height:

**1.** Maximum Height - three stories or 40 feet.

**B**. **Front Yard Regulations**.

**1**. Minimum Front Yard Setback - 40 feet.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - 15 feet except that no building shall be located within 50 feet of any side lot line abutting a lot in any Residential District.

**2**. Minimum Rear Yard Setback - 30 feet except that no building shall be located within 50 feet of any rear lot line abutting a lot in any Residential District.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width - 200 feet.

**2.** Minimum Lot Depth - 200 feet.

**E. Lot Area Regulations**.

**1.** Minimum Lot Area - five acres.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 50%.

**G. Screening and Fencing**. The City may require the screening or fencing of any recreational use side and rear yard which abuts a residential district.

**H. General Standards**. Additional requirements and other regulations related to signs, parking, etc. are set forth in Section 11.70 of this Chapter.

**Subd. 7. Building Design and Construction Standards.**

The architectural appearance and functional design of the building and site shall maintain a high standard of architectural and aesthetic compatibility with surrounding uses and shall comply with the building design and construction standards of Section 11.70, Subdivision 33 of this Chapter.

## SEC. 11.56. PUBLIC/INSTITUTIONAL DISTRICT (PI).

### Subd. 1. Purpose.

The purpose of the POS Public/Institutional District is to provide for a specific zoning district to accommodate major public and institutional uses of a governmental, educational, cultural, recreational, public service and healthcare nature that serve the entire community. It is unique in that the primary objective of uses within this district is the provision of services, rather than the sale of goods or services. It is intended that uses within such a district will be compatible with adjoining development and where available, structures shall be serviced by municipal urban services.

### Subd. 2. Permitted Uses.

**A.** Governmental utility buildings, public maintenance buildings and structures necessary for the health, safety and general welfare of the community.

**B.** Park and ride facilities; public facilities only.

**C.** Public civic or cultural buildings, such as libraries, public administration buildings, fire stations, police department buildings and historical developments.

**D.** Public garages, parking lots and bus stations.

E. Essential services, except transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

### Subd. 3. Accessory Uses.

**A.** Accessory uses and buildings incidental and customary to uses allowed as permitted, conditional and interim in this Section.

**B.** Fences.

**C.** Ground source heat pump systems as regulated by Section 11.73, Subdivision 4 of this Chapter.

**D.** Off-street parking and off-street loading.

**E.** Signs, subject to the standards in Section 11.71 of this Chapter.

**F.** Roof or Building Mounted SES, Ground Mounted SES and Community SES as regulated by section 11.73, subd. 3 of this chapter. (Amended Ord. No. 127, Second Series, 2-17-15)

### Subd. 4. Conditional Uses.

**A.** Cemeteries and memorial gardens

**B.** Essential services involving transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV and up to 100 kV.

**C.** Hospitals and residential care facilities including extended care facilities for mentally retarded, rest homes and care for the aged, ill and infirmed.

**D.** Preschool, elementary, middle, high schools or colleges and other institutions of higher learning having a regular course of study accredited by the state of Minnesota.

**E.** Public civic auditoriums, indoor recreation centers, arenas or other facilities with an event seating capacity of more than 300 persons.

**F.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**G.** Wind energy conversion systems (WECS) as regulated by Section 11.73, Subdivision 2 of this Chapter.

**Subd. 5. Interim Uses.**

**A.** Temporary classroom type structure for use by public or private institutions.

**Subd. 6. Performance Standards.**

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the PI district shall exceed the following height:

**1.** Maximum Height - Three stories or 40 feet.

**B**. **Front Yard Regulations**.

**1**. Minimum Front Yard Setback - 30 feet.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback - Ten feet except that no building shall be located within 50 feet of any side lot line abutting a lot in any Residential District.

**2**. Minimum Rear Yard Setback - 30 feet except that no building shall be located within 50 feet of any rear lot line abutting a lot in any Residential District.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width - 100 feet.

**2.** Minimum Lot Depth - 100 feet.

**E. Lot Area Regulations**.

**1.** Minimum Lot Area - 20,000 square feet.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 75%.

**G. Screening and Fencing**. The City may require the screening or fencing of any public or institutional side and rear yard which abuts a residential district.

**H. General Standards**. Additional requirements and other regulations related to signs, parking, etc. are set forth in Section 11.70 of this Chapter.

**Subd. 7. Building Design and Construction Standards.**

The architectural appearance and functional design of the building and site shall maintain a high standard of architectural and aesthetic compatibility with surrounding uses and shall comply with the building design and construction standards of Section 11.70, Subdivision 33 of this Chapter.

## SEC. 11.57. PARKS AND OPEN SPACE DISTRICT (POS).

### Subd. 1. Purpose.

The purpose of the POS Parks and Open Space District is to provide recreational and leisure opportunities through publicly owned land, although privately owned land may qualify, and recognize significant natural resources such as rivers, steep slopes, extensive woodlands, wetlands and floodplains by preserving them in their natural state in order to assure continuation of the existing natural drainage system, prevent soil erosion, maintain ecological balance and assure their permanent use for their primary function as well as for enjoyment by the general public.

### Subd. 2. Permitted Uses.

**A.** Parks, trails, play fields, playgrounds and directly related buildings and structures.

**B.** Agriculture except potentially offensive uses such as feedlots.

**C.** Open space and forest, nature or other preserve.

**D.** Stormwater retention ponds and drainageways.

### Subd. 3. Accessory Uses.

**A.** Accessory uses and buildings incidental and customary to uses allowed as permitted, conditional and interim in this Section.

**B.** Fences.

**C.** Ground source heat pump systems as regulated by Section 11.73, Subdivision 4 of this Chapter.

**D.** Off-street parking and off-street loading.

**E.** Signs, subject to the standards in Section 11.70 of this Chapter.

**F.** Roof or Building Mounted SES, Ground Mounted SES and Community SES as regulated by section 11.73, subd. 3 of this chapter. (Amended Ord. No. 127, Second Series, 2-17-15)

### Subd. 4. Conditional Uses.

**A.** Planned unit developments as regulated by Section 11.11 of this Chapter.

**B.** Recreational facilities of a commercial nature such as swimming pools, golf courses, riding stables and sports arenas and stadiums.

### Subd. 5. Interim Uses

**A.** None.

**Subd. 6. Performance Standards.**

**A. Height Regulations**. Except as provided for by Section 11.70, Subdivision 29 of this Chapter, no structure within the POS district shall exceed the following height:

**1.** Maximum Height - Three stories or 35 feet.

**B**. **Front Yard Regulations**.

**1.** Minimum Front Yard Setback.

**(a)** Parks, playgrounds, play fields, trails and open space - None.

**(b)** Parks, playgrounds, play fields, trails and open space (buildings only) - 30 feet.

**(c)** All other uses - 30 feet.

**C. Side and Rear Yard Regulations**.

**1.** Minimum Side Yard Setback.

**(a)** Parks, playgrounds, play fields, trails and open space - None.

**(b)** Parks, playgrounds, play fields, trails and open space (buildings only) - ten feet.

**(c)** All other uses - ten feet.

**2**. Minimum Rear Yard Setback.

**(a)** Parks, playgrounds, play fields, trails and open space - None.

**(b)** Parks, playgrounds, play fields, trails and open space (buildings only) - ten feet.

**(c)** All other uses - ten feet.

**3.** Where a lot is located at the intersection of two or more streets or highways, the side yard setback adjacent to the street or highway shall be the same as the front yard setback.

**D**. **Lot Width and Depth Regulations**.

**1.** Minimum Lot Width - None.

**2.** Minimum Lot Depth - None.

**E. Lot Area Regulations**.

**1.** Minimum Lot Area - None.

**F. Lot Coverage**. The maximum lot coverage of all buildings including accessory buildings shall not exceed 25%.

**G. Screening and Fencing**. The City may require the screening or fencing of any park use side and rear yard which abuts a residential district.

**H. General Standards**. Additional requirements and other regulations related to wetland and tree preservation, etc. are set forth in Section 11.70 of this Chapter.

**SEC. 11.58 - 11.59 RESERVED FOR FUTURE EXPANSION.**

## SEC. 11.60. FLOOD PLAIN MANAGEMENT OVERLAY DISTRICT (FP).

### Subd. 1. Statutory Authorization, Findings of Fact and Purpose.

**A. Statutory Authorization.** The Legislature of the State of Minnesota, has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

**B. Findings of Fact.**

**1.** The flood hazard areas of the City are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

**2. Methods Used to Analyze Flood Hazards.** This Section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

**3. National Flood Insurance Program Compliance.** The Section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Part 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

**C. Statement of Purpose.** It is the purpose of this Section to promote the public health, safety, and general welfare and to minimize those losses described in this Subdivision by provisions contained herein.

### Subd. 2. General Provisions.

**A. Land to Which Section Applies.** This Section shall apply to all lands within the jurisdiction of the City shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

**B. Establishment of Official Zoning Map.** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Section. The attached materials shall include the Flood Insurance Study for the City of Pine Island prepared by the Federal Insurance Administration dated February 16, 1994, and the Flood Insurance Map dated February 16, 1994 therein. The Official Zoning Map shall be on file in the office of the City Administrator and the office of the Zoning Administrator.

**C. Regulatory Flood Protection Elevation.** The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**D. Interpretation.**

**1**. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

**2.** The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment/Planning Commission shall make the necessary interpretation. All decisions will be based on elevations on the regional 100-year flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board/Commission and to submit technical evidence.

**E. Abrogation and Greater Restrictions.** It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

**F. Warning and Disclaimer of Liability.** This Section does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

**G. Severability.** The provisions of this Section shall be severable if any section, clause, provision, or portion is adjudged unconstitutional or invalid by a court of competent jurisdiction. The invalidity of any lettered paragraph, subparagraph or subdivision thereof shall not invalidate any other lettered paragraph or subparagraph, subdivision, or any other part.

**Subd. 3. Establishment of Zoning Districts.**

**A. Districts:**

**1. Floodway District.** The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map as adopted in Subdivision 2, Subparagraph B, of this Section.

**2. Flood Fringe District.** The Flood Fringe District shall include those areas designated as floodway fringe. The Floodway Fringe District shall constitute those areas shown on the Flood Insurance Rate Map as adopted in Subdivision 2, Subparagraph B of this Section as being within Zone AE but being located outside of the floodway.

**3. General Flood Plain District.** The General Flood Plain District shall include those areas designated as general flood plain. The General Flood Plain District shall constitute those areas shown on the Flood Insurance Rate Map as adopted in Subdivision 2, Subparagraph B, of this Section as being within Zone AE without a floodway.

**B. 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 Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses herein, shall be prohibited. In addition, a caution is provided here that:

**1.** New manufactured homes, replacement manufactured and certain travel trailers and travel vehicles are subject to the general provisions of this Section and specifically Subdivision 10.

**2.** Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this Section and specifically Subdivision 12.

**3.** As-built elevations for elevated or flood proofed structures must be certified by round surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Section and specifically as stated in Subdivision 11.

**Subd. 4. Floodway District (FW).**

**A. Permitted Uses.**

**1**. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.

**2.** Industrial-Commercial loading areas, parking areas and airport landing strips.

**3.** Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

**4**. Residential lawns, gardens, parking areas and play areas.

**B. Standards for Floodway Permitted Uses.**

**1**. The use shall have a low flood damage potential.

**2**. The use shall be permissible in the underlying zoning district if one exists.

**3.** The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

**C. Conditional Uses.**

**1**. Structures accessory to the permitted uses listed above, and the conditional uses listed in 2 through 8 below.

**2**. Extraction and storage of sand, gravel, and other materials.

**3**. Marinas, boat rentals, docks, piers, wharves, and water control structures.

**4.** Railroads, streets, bridges, utility transmission lines, and pipelines.

**5**. Storage yards for equipment, machinery, or materials.

**6.** Placement of fill.

**7.** Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of this Section.

**8.** Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

**D. Standards for Floodway Conditional Uses.**

**1. All Uses.** No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use may be allowed as a conditional use that will cause any increase in the stage of the 100-year of regional flood or cause an increase in flood damages in the reach or reaches affected.

**2.** All floodway conditional uses shall be subject to the procedures and standards contained herein.

**3.** The conditional use shall be permissible in the underlying zoning district if one exists.

**4. Fill.**

**(a)** Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

**(b)** Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

**(c)** As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Council has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the office of the County Recorder.

**5. Accessory Structures.**

**(a)** Accessory structures shall not be designed for human habitation.

**(b)** Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.

**(1)** Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,

**(2)** So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

**(c)** Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

**(1)** The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and,

**(2)** Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

**6. Storage of Materials and Equipment.**

**(a)** The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

**(b)** Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Council.

**7.** Structural works for flood control that will change the course, current or cross-section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

**8**. A levee, dike or floodwall constructed in the floodway shall not cause an increase in the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

**Subd. 5. Flood Fringe District (FF).**

**A. Permitted Uses.** Permitted uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use districts. If no pre-existing underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe "Permitted Uses" and the standards for all Flood Fringe "Permitted and Conditional Uses".

**B. Standards for Flood Fringe Permitted Uses.**

**1.** All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

**2.** As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Subdivision 5, Subparagraph D, Item 5(c).

**3.** The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Item 1, above.

**4.** The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

**5**. The provisions of Subparagraph E, below, shall apply.

**C. Conditional Uses.** Any structure that is not elevated on fill or flood proofed in accordance with Subparagraph B, Items 1 and 2, above, or any use of land that does not comply with the standards in Items 3 and 4, above, shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Subparagraphs D and E, below, and Subdivision 11, Subparagraph D.

**D. Standards for Flood Fringe Conditional Uses.**

**1.** Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: (a) if the enclosed area is above-grade on at least one side of the structure; (b) is designed to internally flood and is constructed with flood resistant materials (c) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

**(a) Design and Certification.** The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

**(b) Specific Standards for Above-Grade, Enclosed Areas.** Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

**(1)** The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters to equalize pressures, the bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**(2)** That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

**2.** Basements, as defined herein, shall be subject to the following:

**(a)** Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

**(b)** Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Item 3, following.

**3.** All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

**4.** When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the City is enforcing a State approved shore and management ordinance. In the absence of a State approved shore land ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Council. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

**5. Storage of Materials and Equipment.**

**(a)** The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

**(b)** Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Council.

**6.** The provisions of Subparagraph E, below, shall also apply.

**E. Standards for All Flood Fringe Uses.**

**1.** All new principal structures must have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

**2. Commercial Uses.** Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

**3. Manufacturing and Industrial Uses.** Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Item 2, above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

**4.** Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

**5.** Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

**6**. Standards for travel trailers and travel vehicles are contained in Subdivision 10, Subparagraph C.

**7.** All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.

**8.** If fill is placed or there is encroachment of any kind in the flood fringe, compensatory storage of equal or greater volume than the encroachment upon the flood fringe must be provided within the flood plain. This encroachment shall not create any surcharge, nor shall it create hazardous velocities.

**Subd. 6. General Flood Plain District.**

**A. Permissible Uses.**

**1.** The uses listed in Subdivision 5, Subparagraph A, shall be permitted uses.

**2.** All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Subparagraph B, below. Subdivision 5 shall apply if the proposed use is in the Floodway District and Subdivision 6 shall apply if the proposed use is in the Flood Fringe District.

**B. Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.**

**1.** Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.

**(a)** A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

**(b)** Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

**(c)** Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

**2.** The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

**(a)** Estimate the peak discharge of the regional flood.

**(b)** Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

**(c)** Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 feet. A lesser stage increase than 0.5 feet shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

**3.** The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Council. The Council must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe boundaries have been determined, the Council shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Subdivisions 5 and 6.

**Subd. 7. Subdivisions.**

**A. Review Criteria.** No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Section and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. 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.

**B. Floodway/Flood Fringe Determinations in the General Flood Plain District.** In the General Flood Plain District, applicants shall provide the information required in Subdivision 7 to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

**C. Removal of Special Flood Hazard Area Designation.** The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

**Subd. 8. Public Utilities, Railroads, Roads, and Bridges.**

**A. Public Utilities.** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

**B. Public Transportation Facilities.** Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Subdivisions 5 and 6. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

**C. On-Site Sewage Treatment and Water Supply Systems.** Where public utilities are not provided: (1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and (2) 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.

**Subd. 9. Manufactured Homes and Manufactured Home Parks and Placement of Travel Trailers and Travel Vehicles.**

**A.** New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Subdivision 8.

**B.** The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Subdivision 6. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Subdivision 6, Subparagraph E, Item 1, then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the Council.

**1.** All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.

**C.** Travel trailers and travel vehicles that do not meet the exemption criteria specified in Item 1 below, shall be subject to the provisions of this Section and as specifically spelled out in Items 3 and 4, below.

**1. 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 Item 2 below, and further they meet the following criteria:

**(a)** Have current licenses required for highway use.

**(b)** Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

**(c)** The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

**2. Areas Exempted for Placement of Travel/Recreational Vehicles.**

**(a)** Individual lots or parcels of record.

**(b)** Existing commercial recreational vehicle parks or campgrounds.

**(c)** Existing condominium type associations.

**3.** Travel trailers and travel vehicles exempted herein lose this exemption when development occurs on the parcel exceeding $500.00 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/flood proofing requirements and the use of land restrictions specified in Subdivisions 5 and 6.

**4**. 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 units or dwelling sites shall be subject to the following:

**(a)** 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 and proper elevated road access to the site exists in accordance with Subdivision 6, Subparagraph E. No fill placed in the floodway to meet the requirements of this Subdivision shall increase flood stages of the 100-year or regional flood.

**(b)** All new or replacement travel trailers or travel vehicles not meeting the criteria of Subsection (a) above, may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Subdivision 11, Subparagraph D. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual 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 9.

**Subd. 10. Administration.**

**A. Zoning Administrator.** A Zoning Administrator shall administer and enforce this Section. If the Zoning Administrator finds a violation of the provisions of this Section, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Subdivision 13.

**B. Permit Requirements.**

**1. Permit Required.** A permit issued by the Board of Adjustment/Planning Commission in conformity with the provisions of this Section shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a non-conforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

**2. Application for Permit.** Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

**3. State and Federal Permits.** Prior to processing an application for a permit, conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.

**4. Certificate of Zoning Compliance for a New, Altered, or Non-Conforming Use.** It is unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Section.

**5. Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance.** Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized is unlawful.

**6. Certification.** The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Section. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

**7. Record of First Floor Elevation.** The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood proofed.

**C. Board of Adjustment.**

**1. Rules.** The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

**2. Expenditures and Tax Forces.** The Board/Commission shall have authority to convene and disband task forces as needed. Task forces may make suggestions to the Board/Commission. Said suggestions shall be considered by the Board/Commission and may be recommended to the City Council for formal action. Task forces do not have the authority to make expenditures under this Section without the express approval of the City Council, pursuant to a recommendation from the Board/Commission.

**3. Review.** The Board/Commission shall hear and review applications made under this Section and make a recommendation to the City Council.

**4. Variances.** The City Council may authorize 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. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

**5. Hearings.** In reviewing an application for a permit or variance, the Board/Commission shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board 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.

**6. Decisions.** The City Council shall arrive at a decision on an application or variance within 30 days of receiving a recommendation from the Board/Commission. After receiving the recommendation, the City Council may, so long as such action is in conformity with the provisions of this Section, reverse or affirm, wholly or in part, or modify the recommendation of the Board/Commission. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the City Council may prescribe appropriate conditions and safeguards such as those specified in Subparagraph D, Item 6 of this Subdivision, which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Section. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

**7. Appeals.** Appeals from any decision of the City Council may be made, and as specified in Minnesota Statutes.

**8. Flood Insurance Notice and Record Keeping.** The Zoning Administrator shall notify the applicant for a variance that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage and (2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

**D. Conditional Uses.** The City Council shall hear and decide applications for conditional uses permissible under this Section. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning Commission for consideration.

**1. Hearings.** Upon filing with the Zoning Administrator an application for a conditional use permit, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

**2. Decisions.** The Council shall arrive at a decision on a conditional use within 30 days of receiving a recommendation from the Planning Commission. In granting a conditional use permit the Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Item 6 of this Subparagraph D, which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Section punishable under Subdivision 13. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

**3. Procedures to be Followed by the City Council in Passing on Conditional Use Permit Applications Within All Flood Plain Districts.**

**(a)** Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:

**(1)** Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel.

**(2)** Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

**(b)** Transmit one copy of the information described in Subsection (a) above, to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

**(c)** Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

**4. Factors Upon Which the Decision of the City Council Shall be Based.** In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other provisions of this Section, and:

**(a)** The danger to life and property due to increased flood heights or velocities caused by encroachments.

**(b)** The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

**(c)** The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

**(d)** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

**(e)** The importance of the services provided by the proposed facility to the community.

**(f)** The requirements of the facility for a waterfront location.

**(g)** The availability of alternative locations not subject to flooding for the proposed use.

**(h)** The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

**(i)** The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

**(j)** The safety of access to the property in times of flood for ordinary and emergency vehicles.

**(k)** The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

**(l)** Such other factors which are relevant to the purposes of this Section.

**5. Time for Acting on Application.** The City Council shall act on an application in the manner described above within 30 days from receiving the application, except that where additional information is required pursuant to Item 4, above, the Council shall render a written decision within 30 days from the receipt of such additional information.

**6. Conditions Attached to Conditional Use Permits.** Upon consideration of the factors listed above and the purpose of this Section, the City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:

**(a)** Modification of waste treatment and water supply facilities.

**(b)** Limitations on period of use, occupancy, and operation.

**(c)** Imposition of operational controls, sureties, and deed restrictions.

**(d)** Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

**(e)** Flood proofing measures, in accordance with the State Building Code and this Section. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

**Subd. 11. Non-Conforming Uses.**

A structure or the use of a structure or premises which was lawful before the effective date of this Section but which is not in conformity with the provisions of this Section may be continued subject to the following conditions:

**A.** No such use shall be expanded, changed, enlarged, or altered in a way which increases its non-conformity.

**B**. Any alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in Subparagraph C, below.

**C**. The cost of any structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this Subdivision are satisfied. The cost of all structural alterations and additions constructed since the adoption of the City'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 50% of the current market value of the structure, then the structure must meet the standards of Subdivisions 5 and 6 for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

**D**. If any non-conforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Section. The Assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses which have been discontinued for a period of 12 months.

**E.** If any non-conforming use or structure is destroyed by any means, including floods, to an extent of 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 Section. The applicable provisions for establishing new uses or new structures in Subdivisions 5, 6 or 7 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

**F.** If a substantial improvement occurs, as defined in this Subdivision, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements under this Subdivision, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

**Subd. 12. 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 variances or conditional uses) is unlawful.

**B.** Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

**1.** In responding to a suspected City Code violation, the Zoning Administration and the City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct City Code violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

**2**. When a City Code 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 City's plan of action to correct the violation to the degree possible.

**3.** The Zoning Administrator shall notify the suspected party of the requirements of this 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 City. If the construction or development is already completed, then the Zoning Administrator may either (1) 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 (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

**4.** If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Section 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 Section.

**Subd. 13. Amendments.**

**A.** The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

**B.** All amendments to this Section, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days written notice of all hearings to consider an amendment to this Section and said notice shall include a draft of the ordinance amendment or technical study under consideration.

**Subd. 14. Grading and Erosion Control Plan.**

A satisfactory erosion control and grading plan consistent with the Minnesota Pollution Control Agency’s Best Practices Handbook must be approved by the City Engineer before a grading and building permit is issued for construction, if the construction will result in disturbing the soil.

## SEC. 11.61. SHORELAND MANAGEMNT OVERLAY DISTRICT (SL).

### Subd. 1. Purpose.

The purpose of the SL Shoreland Management Overlay District is to manage the effect of shoreland and water surface crowding, to prevent pollution of surface and ground waters of the City, to provide ample space on lots for sewage treatment systems, to minimize flood damages, to maintain property values, and to maintain natural characteristics of shorelands and adjacent water areas via shoreland controls which regulate lot sizes, placement of structures and alterations of shoreland areas.

**SEC. 11.62 - 11.69 RESERVED FOR FUTURE EXPANSION.**

## SEC. 11.70. PERFORMANCE STANDARDS.

### Subd. 1. Purpose.

The performance standards established in this Section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to environment. All future development in all districts shall be required to meet these standards and the standards shall also apply to existing development where so stated. Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage.

### Subd. 2. Exterior Storage.

**A.** In residential districts, all materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following in good order: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials, if these are used or intended for use on the premise's, off-street parking of passenger automobiles and pick-up trucks and fire wood. Boats and unoccupied trailers, less than 25 feet in length, are permissible. Existing uses shall comply with this provision within 12 months of the effective date of this Chapter.

**B.** In all new districts, the City may require a Conditional Use Permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a threat to living amenities.

### Subd. 3. Refuse.

**A.** In all districts, all waste materials, debris, refuse, or garbage shall be kept in an enclosed building or property contained in a closed container designed for such purposes, with the exception of crop residue. The owner of vacant land shall be responsible for keeping such land free of refuse. Existing uses shall comply with this provision within six months of the effective date of this Chapter.

**B.** Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts for a period exceeding seven days; inoperative shall mean incapable of movement under their own power and in need of repairs. All exterior storage material not included as a permitted use, accessory use, or conditional use, or otherwise permitted by provisions of this Chapter, shall be considered as refuse.

**Subd. 4. Glare.**

In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 candles (meter reading) as measured from said property.

**Subd. 5. Bulk Storage (Liquid).**

**A.** All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the Council may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety and general welfare). All existing above ground liquid storage tanks having a capacity in excess of 10,000 gallons shall secure a conditional use permit within 12 months of the effective date of this Chapter.

**B.** The Council may require the development of diking around said tanks. Diking shall be suitably sealed and shall hold a leakage capacity equal to 115% of the tank capacity. Any existing storage tank that, in the opinion of the Council, constitutes a hazard to the public safety shall discontinue operations within one year of the effective date of this Chapter.

**Subd. 6. Nuisances.**

**A. Nuisance Characteristics.** No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities. The following standards apply to non-industrial districts.

**B. Noise.**

**1. Noise Prohibited**. It is unlawful for any person to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth unless noise be reasonably necessary to the preservation of life, health, safety or property.

**2. Measurement of Noise.** Any activity not expressly exempted by this Subdivision which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property by more than six decibels above the ambient noise levels as designated in the following table at the time and place and for the duration then mentioned, shall be deemed to be a violation of this Chapter, but any enumeration herein shall not be deemed to be exclusive.

6:00 PM - 9:00 PM (residential districts)

| Duration of Sound | 7:00 AM-6:00 PM (all districts) | 6:00 PM-7:00 AM (all other dist.) | 9:00 PM-7:00 AM (res. districts) |
|---|---|---|---|
| Less than 10 minutes | 70db | 65db | 55db |
| Between 10 minutes and 2 hours | 60db | 55db | 45db |
| In excess of 2 hours | 50db | 45db | 40db |

**3.** In determining whether a particular sound exceeds the maximum permissible sound level in the above table: (1) sounds in excess of the residential district limitations as measured in a residential district are violative of this Section whether the sound originates in a residential district or any other district; (2) during all hours of Sundays and State and Federal holidays, the maximum allowable decibel levels for residential districts are as set forth in Column II of the table.

**4.** Sounds emanating from the operation of (1) motor vehicles on a public highway; (2) aircraft; (3) outdoor implements such as power lawn mowers, snowblowers, power hedge clippers, and power saws; and (4) pile drivers or jackhammers and other construction equipment; and (5) emergency equipment; and (6) trains are exempt from the provisions of this Subdivision except during the hours of 9:00 PM to 7:00 AM. Sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places wherein athletic contests take place are exempt from the provisions of this Subdivision.

**C. Vibration.** The following vibrations are prohibited:

**1.** Any vibration discernible (beyond property line) to the human sense of feeling for three minutes or more duration in any one hour.

**2.** Any vibration resulting in any combination of amplitudes and frequencies beyond the "safe" range of most current standards of the United States Bureau of Mines on any structure.

**D. Toxic or Noxious Matter.** Any use shall be so operated so as not to discharge across the boundaries of any lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located, toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort, or welfare or cause injury or damage to property or business.

**E. Air Pollution.** Any use shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort, or general welfare of the public. For the purpose of this Chapter, the regulations and standards adopted by the Minnesota Pollution Control Agency shall be employed.

**F. Miscellaneous Nuisances.**

**1.** It is unlawful for any person to store or keep any vehicle of a type requiring a license to operate on the public highways; but, without a current license attached hereto, whether such vehicle be dismantled or not, outside of an enclosed building in the residential or agricultural districts.

**2.** It is unlawful for any person to create or maintain a junkyard or vehicle dismantling yard except as provided herein.

**3.** The following are declared to be nuisances affecting public health or safety:

**(a)** The effluence from any cesspool, septic tank, drainfield or human sewage disposal system discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.

**(b)** The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.

**(c)** The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges, or latches or providing locks to prevent access by the public.

**Subd. 7. Landscaping, Screening and Fencing.**

**A. Landscaping.**

**1.** In all districts where setbacks exist or are required, all developed uses shall provide a landscaped yard, including grass, decorative stones, or shrubs and trees, along all streets. This yard shall be kept clear of all structures, storage, and off-street parking. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot; such yard shall have a depth of at least ten feet.

**2.** In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

**3.** All vacant lots, tracts or parcels shall be properly maintained in accordance with their natural or existing character.

**B. Screening**.

**1.** Screening shall be required in residential zones where (1) any off-street parking area contains more than four parking spaces and is within 30 feet of an adjoining residential zone, and/or (2) where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential use or zone.

**2.** Where any business or industry (structure, parking or storage) is located adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is located across the street from a residential zone, but not on that side of a business or industry considered to be the front.

**3.** All exterior storage shall be screened. The exceptions are: (1) merchandise being displayed for sale, (2) materials and equipment presently being used for construction on the premises.

**4.** The screening required in this Subdivision may consist of a fence, trees, shrubs and berms, but shall not extend within 15 feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, 20 feet from the street right-of-way with landscaping between the screening and pavement. Planting of a type approved by the Council may also be required in addition to or in lieu of fencing.

**C. Fencing.** Fences shall be permitted in all yards subject to the following:

**1.** Approval Required: No person except on a farm and related to agricultural uses or if the fence is six feet or less shall hereafter construct or cause to be constructed or erected within the City any fence without first making an application for a building permit.

**2.** Locations; Boundary Line Fences:

**(a)** **f**ences, including footings, shall be located entirely upon the private property.

**(b)** The owner of the property on which a fence exists or is proposed to be constructed is responsible for verifying their property lines by:

**(1)** Locating their property irons; or

**(2)** If the property lines cannot be located:

**(i)** The Zoning Administrator or the building official may require the owner of property upon which a fence now exists, or may require any property owner proposing to construct a fence to establish the boundary lines of the property by a survey thereof to be made by a registered land surveyor; or

**(ii)** The owner of property upon which a fence now exists, or the property owner on which the fence is to be constructed and the owner(s) of the adjoining properties enter into an agreement regarding the location of the fence to be recorded with the titles of the respective properties, subject to approval of an administrative permit.

**(c)** No fences shall be placed on or extend into public right-of-way or onto public property.

**(d)** Fences in easements shall not impede the flow of water. If the City needs to utilize the easement, the fence will be removed and relocated at the expense of the property owner.

**3.** Construction and Maintenance:

**(a)** Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Zoning Administrator shall commence proper proceedings for the abatement thereof.

**(b)** Electric fences shall only be permitted in the Agricultural District when related to agriculture, and on farms in other districts when related to agricultural purposes, but not as boundary fences.

**(c)** Barbed wire fences shall only be permitted on farms related to agriculture.

**(d)** That side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face abutting property or street right-of-way.

**4.** Traffic Sight Visibility Triangle: On corner lots, no fence or screen shall be permitted within the area defined as the traffic sight visibility triangle by Section 11.70, Subdivision 16, Letter A of this Chapter.

**5.** Residential Fencing and Screening:

**(a)** Open for Passage: Except as provided herein, fences shall be at least 5% open for passage of air, light, and drainage.

**(b)** Setbacks from Public Rights of Way:

**(1)** Fences extending across front yards and side yards abutting a public right of way shall not exceed 48 inches in height and shall be at least 75% open space for the passage of air and light, and shall be set back a minimum of ten feet from any lot line abutting a public right-of-way, except where additional setback is required by Section 11.70, Subdivision 7, Letter C6d(2) or C6d(3) of this Chapter.

**(2)** A fence with a height greater than 48 inches or less than 75% open space may be constructed within a required rear yard of a double frontage lot and a side yard of a corner lot abutting a major collector or arterial street provided that:

**(i)** The fence shall be set back 15 feet from the property line abutting a major collector or arterial street.

**(ii)** The fence along a side lot line abutting a major collector or arterial street right-of-way shall not extend into a required front yard and be no closer to the front lot line than a point intersecting the front line of the principal building.

**(iii)** A gate constructed of the same material as the fence shall be provided in the fence to allow for maintenance of the street side boulevard for interior lots.

**(3)** All fences located within any required yard abutting a public right-of-way shall maintain the traffic visibility requirements of Section 11.70, Subdivision 16, Letter A of this Chapter.

**6.** Commercial, Institutional and Industrial Fencing:

**(a)** Location:

**(1)** Commercial and Special districts: Except in a required front yard, or rear or side yard abutting a public street, fences may be erected up to eight feet in height. Fences in excess of eight feet, may be allowed by approval of a conditional use permit, but shall not be located within a required front yard.

**(2)** Industrial districts:

**(i)** Fences may be erected up to a maximum of eight feet in height, except as may be allowed by approval of a conditional use.

**(ii)** Fences extending across front yards and side yards abutting a public right-of-way shall be at least 75% open space for the passage of air and light.

**D. Residential Buffer Yards.** Except for lots of record or preliminary platted lots having legal standing as of June 29, 2011, the following additional lot requirements and screening provisions shall be required for parcels abutting principal arterial, regional arterial, local arterial or regional collector streets as designated in the Pine Island Comprehensive Plan.

**1.** Lot and Setback Requirements.

**(a)** For double frontage lots where the rear yard abuts regional arterial, local arterial or regional collector street, the following standards shall apply:

| | AG | R-1 | R-2 | R-3 | R-4 |
|---|---|---|---|---|---|
| Lot Depth | 660 feet | 140 feet | 110 feet | 140 feet | 120 feet |

**(b)** For corner lots where the side yard abuts regional arterial, local arterial or regional collector street, the following standards shall apply:

| | AG | R-1 | R-2 | R-3 | R-4 |
|---|---|---|---|---|---|
| Lot Width | 660 feet | 115 feet | 90 feet | Single family: 100 feet<br>Two family: 110 feet | 120 feet |

**(c)** For lots where the side or rear yard abuts regional arterial, local arterial or regional collector street, the following standards shall apply:

| | AG | R-1 | R-2 | R-3 | R-4 |
|---|---|---|---|---|---|
| Side Yard Setback | 50 feet | 50 feet | 45 feet | 45 feet | 50 feet |
| Rear Yard Setback | 50 feet | 50 feet | 45 feet | 45 feet | 50 feet |

**(d)** For double frontage lots where the rear yard abuts a principal arterial street, the following standards shall apply:

| | AG | R-1 | R-2 | R-3 | R-4 |
|---|---|---|---|---|---|
| Lot Depth | 660 feet | 160 feet | 130 feet | 160 feet | 140 feet |

**(e)** For corner lots where the side yard abuts a principal arterial street, the following standards shall apply:

| | AG | R-1 | R-2 | R-3 | R-4 |
|---|---|---|---|---|---|
| Lot Width | 660 feet | 135 feet | 110 feet | Single family: 120 feet<br>Two family: 130 feet | 140 feet |

**(f)** For lots where the front, side or rear yard abuts a principal arterial street, the following standards shall apply:

| | AG | R-1 | R-2 | R-3 | R-4 |
|---|---|---|---|---|---|
| Front Yard Setback | 70 feet | 70 feet | 70 feet | 70 feet | 70 feet |
| Side Yard Setback | 70 feet | 70 feet | 70 feet | 70 feet | 70 feet |
| Rear Yard Setback | 70 feet | 70 feet | 70 feet | 70 feet | 70 feet |

**2.** Easement: A drainage and utility easement shall be established over the full depth and width of the required buffer yard encompassing all plantings and the slopes of earth berms required by this Section. No structure shall be installed within the easement other than a fence as may be allowed by this Chapter or a residential fence on a single lot located no closer to the right of way than the top of the interior slope of a berm or on the interior side of plantings required by this Section.

**3.** Screening Plan Required: For applicable subdivisions, a comprehensive screening plan shall be submitted. The plan shall identify all proposed buffer screening in both plan and sectional view. A certified grading plan shall be provided prior to installation of any plantings to verify consistency with the approved grading and screening plan.

**4.** Timing/Responsibility of Installation: Weather permitting, all buffers, berms, and/or plantings shall be constructed or planted prior to the issuance of a final certificate of occupancy.

**5.** Maintenance:

**(a)** Maintenance of the buffer yard berms, plantings, and/or fences shall be the responsibility of the individual property owners or, if applicable, the homeowners' association.

**(b)** All repairs to the screening wall or fence shall be consistent with the original screening wall or fence design in regard to location and appearance.

**(c)** Replacement of landscape materials or plantings in a buffer yard area shall be consistent with the approved buffer yard screening plan.

**(d)** All repair or plant replacement shall be done within 45 days of written notification from the City or if applicable, the homeowners' association.

**6.** Design Standards:

**(a)** Buffer Yards: Except where natural vegetation is acceptable, buffer yards shall contain a combination of earth berms, plantings, or privacy fencing of a sufficient density to provide a minimum visual screen and a reasonable buffer to the following heights:

**(1)** Regional arterial, local arterial and regional collector streets: Ten feet.

**(2)** Principal arterial streets: 12 feet.

**(3)** The height of the berm shall be measured along a line drawn at the back of the curb of the roadway, or the edge of bituminous, to the ground elevation at the rear line of the building pad to the peak of the berm.

**(4)** Where the grade elevation of the first floor of the building for which the buffer is providing protection is more than ten feet above the grade of an adjacent regional arterial, local arterial or regional collector street or 12 feet above the grade of an adjacent principal arterial street, the minimum screening height requirements of this Section shall not apply.

**(5)** Where the grade elevation of the first floor of the building for which the buffer is providing protection is more than six feet below the centerline grade of an adjacent regional arterial, local arterial, regional collector or principal arterial street, the minimum screening height requirements shall be reduced by four feet along regional arterial, local arterial and regional collector streets or by six feet along principal arterial streets.

**(b)** Plantings: All designated buffer yards must be seeded or sodded except in areas of steep slopes where natural vegetation is acceptable as approved by the Zoning Administrator. All plantings within designated buffer yards shall adhere to the following:

**(1)** Plant material centers shall not be located closer than five feet from the fence line or property line, and shall not conflict with public plantings, sidewalks, trails, etc.

**(2)** Landscape screen plant material shall be in two or more rows. Plantings shall be staggered in rows unless otherwise approved by the Zoning Administrator.

**(3)** Shrubs shall be arranged to lessen the visual gaps between trees. Along principal arterial streets, all plantings of deciduous trees shall be supplemented with shrubs such that the buffer yard contains a continuous band of plants.

**(4)** Deciduous shrubs shall not be planted more than four feet on center, and/or evergreen shrubs shall not be planted more than three feet on center.

**(5)** Deciduous trees intended for screening shall be planted not more than 40 feet apart. Evergreen trees intended for screening shall be planted not more than 15 feet apart.

**(c)** Walls and Fences: All walls and fences erected within designated buffer yards shall meet the following conditions:

**(1)** Walls and fences formally approved as part of the Subdivision and site plan process shall conform to all of the requirements of this Section.

**(2)** At least 50% of the street side of a screening fence shall be landscaped with plant materials. Plant materials shall be at least equal to the fence height.

**(3)** Fences may be exposed no more than a maximum length of 20 feet between landscaping areas or clusters.

**(4)** For interior lots, a gate constructed of the same material as the fence shall be provided in the wall or fence to allow for maintenance of the street side boulevard.

**(5)** Fences and landscaping shall not be located within the "traffic sight visibility triangle" as defined in Section 11.70, Subdivision 16 of this Chapter.

**(d)** Earth Berms: Earth berms within designated buffer yards shall adhere to the following:

**(1)** Except in areas of steep slopes or where other topographic features will not permit, as determined by the City Engineer, an earth berm shall be installed in all designated buffer yards in accordance with the following minimum height requirements:

**(i)** Regional arterial, local arterial and regional collector streets: Four feet.

**(ii)** Principal arterial streets: Six feet.

**(2)** The slope of the earth berm shall not exceed a three to one (3:1) slope unless approved by the City Engineer.

**(3)** The earth berm shall contain no less than four inches of topsoil.

**Subd. 8. Permitted Encroachments.**

The following shall be considered as permitted encroachments on setback and height requirements except as provided in this Chapter.

**A**. In Any Yard: Posts, off-street open parking spaces, flues, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks and fences, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter amended. Decks are also exempted from the rear yard setback requirements except that a deck may not be located closer than 20 feet from the rear property line.

**B.** Required Front Yard Setback Exceptions: The principal building setback requirements for front and side yards adjacent to a public right-of-way, as established by the respective zoning districts, may be reduced upon the approval of an administrative permit, to a distance equaling the average setback of principal buildings within the block frontage in which the lot is located. In no case shall this distance be less than 15 feet, nor shall a principal structure be placed more than seven feet beyond the setback of any principal structure on a directly abutting lot.

**Subd. 9. Accessory Buildings and Structures.**

**A. In All Districts**.

**1.** Accessory buildings shall not be constructed prior to or in lieu of the principal building.

**2.** Any accessory building shall be considered as an integral part of the principal building if it is located less than six feet from the principal building.

**3.** Conditional Use Permit Required. No building permit shall be issued for the construction of more than one detached accessory building on a single parcel in addition to one private garage (attached or detached), except by conditional use permit.

**4.** Site Plan Approval.

**(a)** Zoning Permit Required: Detached accessory buildings not exceeding 120 square feet in floor area shall be allowed without issuance of a building permit, but shall comply with all other provisions of this Chapter. The Zoning Administrator or designee shall review the site plan and construction drawings to determine compliance with this Chapter and other applicable ordinances, laws, and regulations.

**(b)** Building Permit Required: Detached accessory buildings greater than 120 square feet in floor area shall require a building permit. The building official shall review the site plan and construction drawings to determine compliance with the building code and other applicable ordinances, laws, and regulations.

**(c)** Conditional Use Permit Required: Detached accessory buildings greater than 1,127 square feet in floor area shall require a conditional use permit in addition to a building permit. The building official shall review the site plan and construction drawings to determine compliance with the building code and other applicable ordinances, laws, and regulations.

**(1)** Maximum allowable sizes for accessory structures.

| Lot Size: | Maximum Structure Size: |
|---|---|
| 30,000 sq. ft. and under | 1,127 sq. ft. |
| 30,001 - 1½ acres | 1,350 sq. ft. |
| Over 1½ acres | 1,500 sq. ft. |

The lot size limits only applies to lots of record (platted lots). Accessory structures of more than 1,127 square feet may be considered on lots over 30,000 square feet but shall be subject to design review as part of the conditional use permit. The City reserves the right to reject any accessory structure it deems may have an adverse effect on surrounding areas.

These limits will only be applied to lots that already contain an existing principal residential structure, or for building permits for both principal, and accessory structures that are issued at the same time.

All other zoning and building code requirements for accessory structures shall be in effect.

**(d)** Support documents: The following documents shall be submitted along with completed application.

**(1)** Two sets of proposed building plans.

**(2)** Site plan showing proposed building set-backs from property line and set-backs of existing structures if any.

**(3)** Elevation plans showing building colors and construction material.

**(4)** Other related documents and plans.

**B.** In Agricultural Districts.

**1.** Accessory buildings shall not be located nearer than ten feet from the side or rear yard lot line or from the residential structure. Accessory buildings and storage sheds that are oriented so that vehicle access is directly straight in off of a public street or alley adjacent to the side or rear lot line shall be set back not less than 25 feet from the side or rear lot line abutting the public street or alley.

**C.** In Residential Districts.

**1.** Accessory buildings and storage sheds less than 200 square feet in size and do not have direct access onto a public street or alley, shall be placed in the rear yard of residential lots no closer than five feet from rear and/or side yard lines. Accessory buildings and storage sheds less than 200 square feet in size that are oriented so that vehicle access is directly straight in off of a public street or alley adjacent to the side or rear lot line shall be set back not less than 20 feet from the side or rear lot line abutting the public street or alley. For the purposes of this amendment the rear yard begins at a point located at the center of the principal building's side walls and goes back to the rear lot line.

**2.** Accessory buildings and storage sheds 200 square feet in size and larger and do not have direct access onto a public street or alley, shall be placed in the rear yard of residential lots no closer than five feet from rear and/or side yard lines. Accessory buildings and storage sheds 200 square feet in size and larger, that are oriented so that vehicle access is directly straight in off of a public street or alley adjacent to the side or rear lot line shall be set back not less than 20 feet from the side or rear lot line abutting the public street or alley. For the purposes of this amendment the rear yard begins at a point located at the center of the principal building's side walls and goes back to the rear lot line.

**3.** No accessory building shall exceed the height of the principal building.

**4.** Detached utility sheds or sheds attached to a principal structure separated from the principal structure by a wall may be permitted by conditional use permit. If detached, they shall not be located closer than ten feet from the principal structure. A concrete slab or other suitable foundation shall be required. Such sheds shall not be larger than 200 square feet in area.

**5.** No private garage used or intended for the storage of automobiles shall exceed 1,120 square feet of gross area, or 28 feet by 40 feet in size, nor shall any side of such garage exceed 40 linear feet. Further, no door or other access opening on such garages shall exceed ten feet.

**6.** Accessory buildings shall not occupy more than 25% of the rear yard.

**7.** Pole type buildings shall not be allowed to be constructed in any residential area.

**C. In Commercial, Industrial and Special Districts**.

**1.** No accessory building shall exceed the height of the principal building except by conditional use permit.

**2.** Accessory buildings may be located any place to the rear of the principal buildings, subject to the Building Code and fire zone regulations, except where prohibited by other Sections of this Chapter.

**Subd. 10. Dwelling Units Prohibited.**

No basement, garage, tent, trailer, recreational vehicles or accessory building shall be used as a permanent dwelling. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Building Inspector.

**Subd. 11. Relocating Structures.**

**A. Permit Required.** Every licensed house mover shall, in each and every instance, before raising, holding up or moving any building either into, within, or from the City, obtain a permit from the City Administrator. An application for such permit shall designate the lot on which the house is to be located, or removed from, the dimensions of the lot, and the proposed location of the structure on the lot, along with setback distance. No permit to move a building shall be issued unless and until the following conditions are fully complied with and approved by the appropriate City authorities:

**1.** The building to be moved must comply in all respects with the zoning provisions of the City Code and other applicable State laws and Codes.

**2.** The lot on which the building is to be located must meet all the minimum dimensional requirements of the zoning district in which it is located.

**3.** The building must be placed on the lot so as to meet all the front, side and rear yard requirements as set forth in this Chapter.

**B. Application Procedure**. The City Administrator shall submit the application to the Planning Commission for approval and recommendations to the Council at the next meeting of said Commission. The Planning Commission and the Council, in determining whether to grant such permit, shall consider the effect of the proposed use on the Comprehensive Plan and on the health, safety, and general welfare of the occupants of surrounding lands. Among other things, the Planning Commission and the Council shall make the following findings where applicable:

**1.** That the use will not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the area;

**2.** That the use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land, so that existing homes will not be depreciated in value, and there will be no deterrence to development of vacant land;

**3.** That the structure and site shall have an appearance which will not have an adverse effect upon adjacent residential properties;

**4.** That the use, in the opinion of the Council, is reasonably related to the overall needs of the City and to the existing land use;

**5.** That the use is consistent with the purposes in this chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use;

**6.** That the use is not in conflict with the Comprehensive Plan of the City;

**7.** That the use will not cause traffic hazard or congestion;

**8.** That adequate utilities, access roads, drainage, and necessary facilities have been or will be provided.

**Subd. 12. Soil Erosion and Sedimentation Control.**

**A. General Standards.**

**1.** All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.

**2.** Slopes over 18% in grade shall not be developed.

**3.** Development on slopes with a grade between 12% and 18% shall be carefully reviewed to insure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.

**4.** Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

**5.** Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time and no exposure shall exceed 60 days unless extended by the Council.

**6.** Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.

**7**. The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Stormwater drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage, and construction cost.

**8.** Public and private properties adjacent to the development site shall be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the City within five days of receiving notification of such. If the violation is not remedied within the time period specified, the City may correct the problem and assess the costs incurred to the property owner.

**B. Exposed Slopes.** The following control measures shall be taken to control erosion during construction:

**1.** No exposed slopes should be steeper in grade than four feet horizontal to one foot vertical.

**2.** At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.

**3.** Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron a gravel energy dissipator should be installed to prevent erosion at the discharge end.

**4.** Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree at the slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes, and netting, or should be worked into the soil to provide additional slope stability.

**5.** Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

**Subd. 13. Preservation of Natural Drainageways.**

**A. Waterways.**

**1.** Every effort shall be made to retain the natural drainage systems in the City including existing wetlands and ponds. The natural drainage system shall be maintained by the City. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.

**2.** The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.

**3.** No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.

**4.** The banks of the waterway shall be protected with a permanent vegetation.

**5.** The banks of the waterway should not exceed four feet horizontal to one foot vertical in gradient.

**6.** The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.

**7.** The bend of the waterway should be protected with turf, sod, or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, fieldstone (if random rip rap is used) or construction materials of concrete. The rip rap shall be no smaller than two inches square nor no larger than two feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.

**8.** If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.

**B. Sediment Control of Waterways.**

**1.** To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.

**2.** Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 25 year storm.

**3.** Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

**Subd. 14. Tree and Woodland Preservation.**

**A. General Provisions.**

**1.** Structures and other amenities shall be located in such a manner that the optimum number of trees shall be preserved.

**2.** Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the cutting of trees on the site and that if trees are cut, they will restore the density of trees to that which existed before development.

**3.** Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.

**4.** Development including grading arid contouring shall take place in such a manner that the root zone aeration stability of existing trees shall not be affected and shall provide existing trees with a watering equal to one-half the crown area.

**5.** Notwithstanding the above, the removal of trees seriously damaged by storms or other acts of God, or diseased trees shall not be prohibited.

**Subd. 15. Wetland Preservation.**

**A. General Provisions.** To the extent possible, all wetlands including marshlands and swamps shall be retained in their natural state to serve as a stormwater runoff basin and also as a wildlife habitat.

**B. Discharges Into Wetlands.**

**1.** No part of any sewage disposal system requiring on-land or in-ground disposal of waste shall be located closer than 150 feet from the normal high water mark unless it is proven by the applicant that no effluent will immediately or gradually reach the wetland because of existing physical characteristics of the site or the system.

**2**. Organic and other waste which would normally be disposed of at a solid waste disposal site or which would normally be discharged into a sewage disposal system or sewer shall not be directly or indirectly discharged to the wetland.

**3.** Stormwater runoff from construction sites may be directed to the wetland only when substantially free of silt, debris and chemical pollutants and only at rates which will not disturb vegetation or increase turbidity.

**C**. **Building Constraints.**

**1.** The lowest floor elevation of buildings if used for living quarters or work area shall be at least three feet above the seasonal high water level of the wetland.

**2.** Development which will result in unusual road maintenance costs or utility line breakages due to solid limitations, including high frost action, shall not be permitted.

**3.** The minimum setback for all buildings shall be 75 feet from the seasonal high water level of the wetland.

**Subd. 16. Traffic Control.**

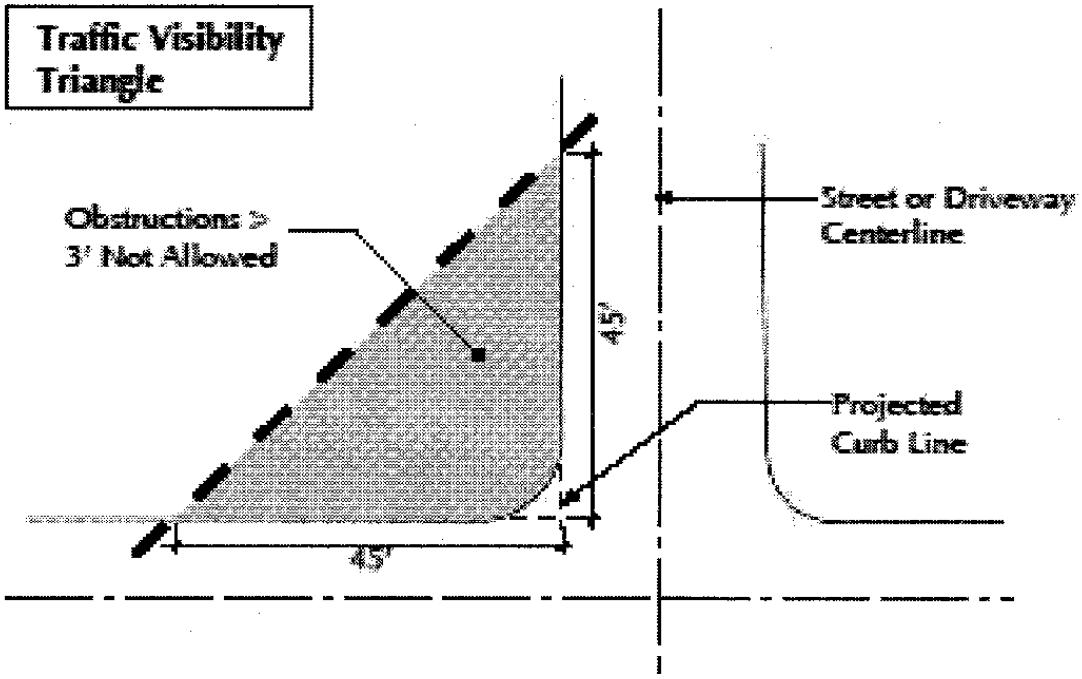
The traffic generated by any use shall be channeled and controlled in a manner that will avoid: (1) congestion on the public streets; (2) traffic hazards; and (3) excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall, to the extent possible, be forward moving with no backing into streets.

**A. Traffic Sight Visibility Triangle.**

**1.** Screening; Obstruction of View: Except as may be approved by the Zoning Administrator, and except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into a yard or right of way area so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street or driveway.

**2.** Visibility From Street or Driveway: Visibility from any street or driveway shall be unobstructed above a height of three feet, measured from where both street or driveway centerlines intersect within the triangle described as beginning at the intersection of the projected curb line (or edge of shoulders for rural sections) of two intersecting streets or drives, thence 45 feet along one curb line, thence diagonally to a point 45 feet from the point of beginning along the other curb line.

**3.** Exceptions:



**(a)** Trees, plantings or landscape arrangements within the area described by this Section that will not create a total obstruction higher than three feet shall be allowed.

**(b)** Properties within the C-1 Central Business District shall be exempt from the provisions of Subsection 2 of this Section.

**Subd. 17. Vacated Streets.**

Whenever any street, alley, easement or public way is vacated by official action, the Zoning District abutting the centerline of the said vacated area shall not be affected by such proceeding.

**Subd. 18. Access Drives and Access.**

**A.** Access drives may be located adjacent to property lines except that they shall not be placed closer than five feet to any side or rear lot line. The number and types of access drives onto major streets may be controlled and limited by the City Council in the interest of public safety and efficient traffic flow.

**B.** Access drives onto County roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

**C.** Access drives to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Zoning Administrator shall review all access drives (driveways) for compliance with accepted community access drive standards. All driveways shall have a minimum width of ten feet with a road strength capable of supporting emergency and fire vehicles.

**D.** All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the Council.

**Subd. 19. Private Sewer Systems.**

The standards as found in Minnesota Pollution Control Agency's Standards for Sewage Treatment 6MCAR 4.8040 are hereby adopted by reference. If there are any inconsistencies between the standards found in this chapter and the State Standards, or if the State Standards are amended, the State Standards as amended shall govern.

**Subd. 20. Manufactured/Mobile Homes.**

**A.** Standards. Manufactured homes shall be permitted in the A, R-l, R-2 and R-3 Districts provided they meet the following minimum standards:

**1.** Is 24 feet in width.

**2**. Has a minimum floor area of 800 square feet.

**3.** The dwelling is placed on a permanent foundation.

**4.** All other requirements of State law and City Code provisions are met.

**5**. All manufactured homes moved into and/or relocated within the City of Pine Island shall meet all applicable local and state building codes. This subsection also applies to all manufactured homes built prior to July 1, 1972 and being moved into or within City limits. (Added, Ord. 9-19-06)

**Subd. 21. Manufactured/Mobile Home Parks.**

**A. Purpose.** It is the purpose of this Subdivision to permit the development of mobile/manufactured home parks in a manner that will promote and improve the general health, safety, convenience and welfare of the citizens by minimizing any adverse effects of such development.

**B. Location.** A manufactured park or subdivision may be established in the R-3 Urban Residential and R-4 Multi-family Residential districts.

**C. Permit Required.** A conditional use permit is required to establish and operate a manufactured home park within the City.

**D. Permit Transfer.** Every person holding a conditional use permit shall give notice in writing to the Zoning Administrator within 72 hours after having sold, transferred, given away, or otherwise disposed of interest in or control of any manufactured home park. Such notice must include the name and address of the person succeeding to the ownership or control of such manufactured home park. A permit may only be transferred upon application to, and approval by, the Council.

**E. Application Requirements and Procedures.** All applications for a conditional use permit shall be submitted to the Zoning Administrator and approved by the Council following the procedures established in Section 11.17. The application for a conditional use permit shall be accompanied by plans including the following information:

**1.** Location and size of manufactured home park.

**2.** Location, size, and character of all manufactured home lots, manufactured home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites, and all setback dimensions.

**3.** Detailed landscaping plans and specifications.

**4.** Location and width of sidewalks.

**5.** Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service, and gas service.

**6.** Plans for an overhead street lighting system shall be submitted for approval by the City Engineer.

**7.** The method of disposing of garbage and refuse.

**8.** Location and size of all streets abutting the manufactured home park and all driveways from such streets to the park.

**9**. Plans and specifications from all road construction within the park or directly related to park operation.

**10.** Floor plans of all service buildings to be constructed within the manufactured home park.

**11.** Such other information as may be required or requested by the Council.

**F. Construction and Installation Standards**. All manufactured homes within a park shall be subject to and meet the construction, plumbing, electrical and mechanical standards as prescribed by the State of Minnesota, U.S. Department of Housing and Urban Development, and the American National Standards Institute identified as ANSI A119.1 or the provisions of the National Fire Protection Association identified as NFPA 501B and any revisions thereto and shall be certified to these standards by a seal affixed to the manufactured home.

**G. Performance Standards for Manufactured Home Parks**.

**1.** All manufactured homes shall be properly connected to the City water system and sanitary sewer system in conformance to standards adopted by the Minnesota Pollution Control Agency. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the City Engineer.

**2.** Each manufactured home park shall maintain a hard-surfaced off-street overload parking lot for guests of occupants in the amount of one space for each five sites and located within 300 feet of the unit to be served.

**3.** All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the City Engineer, and there shall be no overhead wires or support poles except those essential for street or other lighting purposes. Plans for the disposal of surface storm water shall be approved by the City Engineer.

**4.** 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.

**5.** Every structure in the manufactured home park shall be developed and maintained in a safe, approved, and substantial manner. The exterior of every structure shall be kept in good repair. All of said structures must be constructed to meet existing City Code provisions. 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.

**6.** The area beneath all manufactured homes shall be enclosed with a material that shall be generally uniform through the entire manufactured home park, except that such an enclosure must be so constructed that it is subject to reasonable inspection. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.

**7.** Each manufactured home park shall have an area or areas set aside for dead storage. Boats, boat trailers, hauling trailers, and all other equipment not generally stored within the manufactured home or within the utility enclosure that may be provided, shall be stored in a separate place provided by the park owner. This storage place shall be screened. Such equipment shall not be stored upon a manufactured home lot which is occupied by a manufactured home nor upon the streets within the manufactured home park.

**8.** Signs shall be limited to one nameplate or identification sign not to exceed 25 square feet, with lighting, height and location as approved by the Zoning Administrator and have a 15 foot setback from the front line.

**9.** Each manufactured home park shall have at least 10% of the land area developed for recreational use. Development of such recreational land shall be approved by the Council and the cost and maintenance shall be at the owner/operator's expense.

**10.** Each manufactured home park shall have one or more central community buildings to serve primarily as an emergency weather shelter which shall be provided with central heating which must be maintained in a safe, clean, and sanitary condition. Said buildings shall be adequately lighted during all hours of darkness and shall contain laundry washers, dryers and drying areas, public telephones, and public mail boxes, in addition to public toilets and lavatory. For each 100 manufactured home lots or fractional part thereof, there shall be one flush toilet and one lavatory for each sex.

**11.** All structures being placed in the park shall require a permit.

**H. Manufactured Home Park Lots.**

**1.** Each manufactured home site shall contain at least 5,000 square feet of land area for the exclusive use of the occupant and shall be at least 50 feet wide.

**2.** Manufactured homes shall be placed upon lots so that there shall be at least ten feet from the side lot line, 20 feet between the front of the manufactured home and front lot line, and 25 feet between the rear of the manufactured home and the rear lot lines.

**3.** The area occupied by a manufactured home shall not exceed 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 ramada, a carport, an awning, storage closet or storage shed.

**4.** The yards shall be landscaped except for necessary driveway and sidewalk needs which shall not exceed one-half the width of the site.

**5.** Each manufactured home lot shall have hard-surfaced off-street parking space for at least two automobiles. Each space shall be ten feet by 20 feet minimum.

**6.** No more than two motor vehicles shall be stored or kept on any manufactured home lot. No vehicle shall be dismantled, nor shall mechanical work except of a very minor repair nature be done on any vehicle on a manufactured home lot; nor shall any automotive vehicle that is not in an operable condition be parked, stored, or kept on a manufactured home lot or in a manufactured home park, except a vehicle that became inoperable when it was in the manufactured home park, and then it shall not be parked in that condition for a period of more than seven days.

**7.** The corners of each manufactured home lot shall be clearly marked and each site shall be numbered.

**8.** Each site shall be properly landscaped with at least one tree, hedges, grass, fences, windbreaks, and the like.

**I. Manufactured Home Stands.** The area of the manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the manufactured home, thereby securing the superstructure against uplift, sliding, rotation, and overturning.

**1.** The manufactured home stands shall not heave, shift, or settle unevenly under the weight of the manufactured home, due to the frost action, inadequate drainage, vibration, or other forces acting upon the structure.

**2.** The manufactured home stand shall be provided with anchors and tie-downs, such as cast-in-place concrete foundations or runways, screw augers, arrowhead anchors or other devices providing for stability of the manufactured home.

**3.** Anchors and tie-downs shall be placed at least at each corner of the manufactured home stand and each anchor shall be able to sustain a minimum tensil strength of 2,800 pounds or as approved by the current Minnesota State Uniform Manufactured Home Standards Code, whichever is more restrictive.

**J. Park Management.**

**1.** The person to whom a permit for a manufactured home park is issued shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair in a clean and sanitary condition.

**2.** The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter.

**3.** An adult caretaker must be present at all times and is responsible for the maintenance of the park at all times.

**4.** Each park shall have an office for the use of the operator distinctly marked "OFFICE" and such marking shall be illuminated during all hours of darkness.

**5.** The operator of every manufactured home park shall maintain a registry in the office of the manufactured home park indicating the name and address of each permanent resident. Each manufactured home site shall be identified by number and letter also.

**6**. The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers, or other suitable means, said lot limits shall be approximately the same as shown on the accepted basis.

**7.** A map of the manufactured home park shall be displayed at the manufactured home park office and be illuminated during all hours of darkness.

**8.** No public address or loudspeaker system shall be permitted.

**9.** Dogs and animals shall not be permitted to run at large within the manufactured home park.

**10.** It is unlawful for any person to erect, place, construct, reconstruct, relocate, alter, maintain, use, or occupy a cabana or structure in a manufactured home park without the written consent of the owner or operator of the manufactured home park.

**11.** The park management shall provide for the weekly collection and disposal of garbage, waste and trash as approved by the City.

**K. Non-complying mobile/manufactured home parks.**

**1.** Notwithstanding anything to the contrary contained in paragraphs A to J of this Subdivision 23, any mobile/manufactured home park or section or phase of a mobile/manufactured home parks constructed prior to January 1, 1995, is not required to comply with the provisions contained in this subdivision that regulate density, lot-size requirements, or manufactured home set back requirements, and will be considered a "Valid Non-Complying Mobile/Manufactured Home Park" provided that the following conditions are met:

**(a)** The mobile/manufactured home park must comply with all laws, statutes, regulations, requirements and rules promulgated by the State of Minnesota, the State Health Department, and all other administrative agencies of the State of Minnesota.

**(b)** The mobile/manufactured home park must comply with all laws, statutes, regulations, requirements and rules promulgated by the Federal Government of the United States of America, and all administrative agencies of the United States of America.

**(c)** The mobile/manufactured home park must have complied with all City Ordinances of the City of Pine Island at the time it was constructed.

**(d)** If the mobile/manufactured home park was constructed in phases or sections, each particular section or phase of the mobile/manufactured home park must have complied with the then existing City Ordinances of the City of Pine Island when each such section or phase was constructed.

**2.** If the mobile/manufactured home park was not in compliance with all City Ordinances at the time it was constructed (or in the event the park was constructed in sections or phases, if a section or phase was not in compliance with all City Ordinances at the time such section or phase was constructed) then the mobile/manufactured home park (or the section or phase of the mobile/manufactured home park) is to be considered not in compliance with City Ordinances and must be reconstructed in compliance with this Subdivision 23 in order to continue to operate as a mobile/manufactured home park. In such an event, the provisions contained in paragraph K.1 allowing a Valid Non-Complying Mobile/Manufactured Home Park do not apply.

**3.** All mobile/manufactured home parks constructed on or after January 1, 1995, must comply with this Subdivision 23. If the mobile/manufactured home park was constructed in sections or phases, each section or phase constructed on or after January 1, 1995, must comply with this Subdivision 23.

**4.** Any mobile/manufactured home park or any section or phase of any mobile/manufactured home park determined to be not in compliance with state or federal law (as required by paragraphs 1.a and 1.b above) shall be considered not in compliance with this Section 23. Said determination shall be made at the time this ordinance is being enforced and shall be made without regard to when the park was constructed. Any mobile/manufactured home park determined to be not in compliance with state or federal law must be reconstructed in compliance with this Subdivision 23 in order to continue to operate as a mobile/manufactured home park.

**5.** If any Valid Non-Complying Mobile/Manufactured Home Park is substantially destroyed for any reason, whether by natural events or by human acts and whether done voluntarily or involuntarily, it must be reconstructed in compliance with this Subdivision 23 in order to continue to operate as a mobile/manufactured home park. If only a portion of the park is substantially destroyed, then only that portion of the park will need to be reconstructed in compliance with Subdivision 23.

**6.** If any Valid Non-Complying Mobile/Manufactured Home Park is remodeled, reconstructed, or redesigned, the remodeling, reconstruction, or redesign project, must be accomplished in compliance with this Subdivision 23. Replacing an existing trailer with another trailer will not, in itself, be considered a remodeling, reconstruction or redesign project. However, replacing an existing trailer with a different trailer, in conjunction with other significant activities within the park may in the aggregate, if the totality of the circumstances warrant such a determination, be determined to be a remodeling, reconstruction or redesign project, which will require the mobile/manufactured home park to be brought in compliance with this Subdivision 23.

**7.** Any mobile/manufactured home installed in a Valid Non-Complying Mobile/Manufactured Home Park must comply with the City Ordinances that were in effect at the time that the Valid Non-Complying Mobile/Manufactured Home Park was constructed. If the mobile/manufactured home as installed does not comply with said Ordinances, the City may enforce said Ordinances against any person in violation thereof.

**8.** Nothing in this paragraph K shall be construed to compel a land-owner to reconstruct a mobile/ manufactured home park if landowner chooses to no longer use the land for the purpose of a mobile/manufactured home park.

**9.** For purposes of this paragraph K, the date a mobile/manufactured home park or section or phase of a mobile home park was "constructed" shall be deemed to be the date on which the construction was completed and the park, or section or phase of the park, was ready to be populated.

**10.** For purposes of this paragraph K, the term "section or phase" of a mobile/manufactured home park shall mean a portion of a mobile/manufactured home park that was constructed and initially populated during a time interval different from when other portions of the same mobile/manufactured home park as it currently exists was constructed and initially populated.

**11.** Enforcement of the above sub-paragraphs 2 to 10 shall be subject to any applicable statutes of limitations.

**12.** Enforcement of the above sub-paragraphs 2 to 10 shall be subject to any valid variances issued by the City of Pine Island.

**13.** Nothing in this paragraph K shall be construed as an implicit prohibition against the enforcement of any other valid City Ordinance.

**14.** Nothing in this paragraph K shall be construed to restrict the enforcement of any provision of this subdivision 23 that does not regulate density, lot-size requirements, or manufactured home set back requirements.

**Subd. 22. Recreation Vehicles, Boats, Campers and Equipment.**

**A. Location**. Recreation trailers shall not be occupied on the premises of any occupied dwelling or any residential lot; except, the parking of an occupied trailer on any private property or in any garage in any district may be allowed, provided that no permanent living quarters (occupancy exceeding ten days) shall be maintained or business practiced in the trailer.

**B. Construction Use.** A trailer or mobile home may be allowed as a conditional use in any district where the trailer is used as an office connected with construction where a permit has been granted for the construction work. Such conditional use permit shall be issued for a period not exceeding 180 days.

**Subd. 23. Apartments, Townhouses and Other Multi-Family Structures.**

**A.** All multi-family structures allowed in the R-4 District shall be subject to the following standards.

**B.** Standards for Multi-Family Buildings. All requests for building or conditional use permits shall be accompanied by a series of site plans and data showing:

**1.** Building locations, dimensions, and elevations, all signs, structures, entry areas, storage sites, and other structural improvements to the site.

**2.** Circulation plans for both pedestrian and vehicular and traffic.

**3.** Fences and screening devices.

**4.** Solid waste disposal provisions and facilities.

**5.** Storm drainage plans.

**6.** Fire fighting and other public safety facilities and provisions such as hydrant locations and fire lanes.

**7.** Data pertaining to numbers of dwelling units, size, lot area, ratio, etc.

**8.** Exterior wall materials and design information.

**9.** A two foot contour topographical map at the existing site.

**10.** A grading plan illustrating the proposed grade changes from the original topographical map. All site area, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, storm water and groundwater in such a manner as to preclude large scale erosion, unwanted ponding and surface chemical runoff.

**11.** A recreation plan illustrating in detail all recreational facilities and structures.

**12**. A Landscape Plan. The site, when fully developed, shall be landscaped according to a plan approved by the Planning Commission. The landscaping plan shall specify the size, type, and location of all trees and shrubbery and the location of all seeded and sodded areas.

**13.** A soil erosion control plan for the construction period. Areas within the construction zone shall be fenced with construction limit fencing as per the plan to prohibit heavy machinery and/or materials from being placed on areas not to be disturbed during construction. This shall, at a minimum, include all slopes in excess of eighteen percent (18%).

**C. Performance Standards.** Same as those listed in the R-3 District.

**D. Parking Requirements.**

**1**. One and one-half parking spaces per unit shall be provided on the same site as the dwelling unit. Each space shall not be less than nine feet wide and 20 feet in length, or as approved by the Zoning Administrator, and each space shall be served adequately with access drives.

**2.** Parking spaces shall not be located within ten feet of the side or rear lot line.

**3.** Bituminous concrete driveways and parking areas with concrete curbing shall be required.

**E. Landscape Provisions.**

**1.** The design shall make use of all land contained in the site. All of the site shall be related to the circulation, recreation, screening, building, storage, landscaping, etc., so that no portion of the site remains undeveloped.

**2.** A minimum of 20% of the site shall be landscaped.

**F. Screening.**

**1.** Screening to a height of at least five feet shall be required where: (1) any off-street parking area contains more than six parking spaces and is within 30 feet of an adjoining residential zone; and (2) where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential zone.

**2.** All exterior storage shall be screened. The exterior storage screening required shall consist of a solid fence or wall not less than five feet high, but shall not extend within 15 feet of any street driveway or lot line.

**3.** Sidewalks shall be provided from parking areas, loading zones and recreation areas to the entrances of the building.

**4.** Outdoor swimming pools or other intensive recreation shall observe setbacks required for the principal structure.

**G. Appearance.** All buildings within an apartment development shall be so planned that they have the equivalent of a front appearance of each exterior vertical surface.

**H. General Buildings or Structural Requirements.**

**1. Requirements for Exterior Wall Surfacing and Covering.** All multiple family dwelling buildings shall be designed and constructed to have the equivalent of a front appearance on each exterior surface. All accessory or ancillary buildings, including garages, shall be designed and constructed with the same facing materials as the principal building. Such material shall be used in the same or better proportions as used on said principal building.

**2.** Each multiple family dwelling development containing more than four dwelling units shall include a play area, part of which shall be a paved surface.

**3**. Any blighting or deteriorating aspects of the multiple family dwelling development shall be placed or absorbed by the site itself, rather than by neighboring residential uses. This provision particularly applies to the location of parking areas.

**4.** The design shall make use of all land contained in the site. All of the site shall be related to the multiple family use, either parking, circulation, recreation, landscaping, screening, building, storage, etc., so that no portion remains undeveloped.

**5. Trash Incinerators and Garbage.** Except with townhouses and multiple family dwellings of four or less units, no exterior trash or garbage disposal or storage shall be permitted. In the case of row housing and multiple family dwellings of four units or less, there shall be no exterior incineration and all storage shall be completely enclosed by walls and roof.

**Subd. 24. Off-street Parking and Loading.**

**A. Surfacing and Drainage.** Off-street parking areas, except for single-family residences, shall be so graded and drained as to dispose of all surface water accumulation within the area. Open sales lots for cars, trucks, and other equipment shall also be graded and drained, but the interior landscaping is not required.

**B. Location.** All accessory off-street parking facilities required herein shall be located as follows:

**1.** Spaces accessory to one and two-family dwellings on the same lot as the principal use served.

**2.** Spaces accessory to the multiple family dwellings on the same lot as the principal use served or within 300 feet of the main entrance to the principal building served.

**3.** There shall be no off-street parking space within 20 feet of any street right-of-way.

**4.** No off-street open space parking area containing more than four parking spaces shall be located closer than 20 feet from an adjacent lot zoned or used for residential purposes.

**C. General Provisions.**

**1.** Access drives may be placed adjacent to property lines except that drives consisting of crushed rock, or other non-finished surfacing shall be no closer than five feet to any side or rear lot line.

**2.** Each parking space shall not be less than nine feet wide and 20 feet in length.

**3.** Control of Off-Street Parking Facilities. When required, accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the Council requiring the owner and his or her heirs and assigns to maintain the required number of off-street spaces during the existence of said principal use.

**4.** Use of Parking Area. Required off-street parking space in any District shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or rent.

**5.** Parking shall not be allowed in areas not designated for off-street parking.

**D. Design and Maintenance of Off-Street Parking Areas.**

**1.** Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed 30 feet in width and shall be so located as to cause the least interference with traffic movement.

**2.** Curbing and Landscaping. All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five feet from the side property line or a guard of normal bumper height not less than three feet from the side property line.

**3.** Parking Space of Six or More Cars. When a required off-street parking space for six cars or more is located adjacent to a Residential District, a fence approved by the Building Inspector shall be erected along the Residential District property line.

**4.** Maintenance of Off-Street Parking Space. It shall be the joint and several responsibility of the operator and owner of the principal use, uses and/or building to maintain, in a neat and adequate manner, the parking space access ways, landscaping and required fences.

**5.** Determination of Areas. A parking space shall not be less than 300 square feet per vehicle of standing and maneuvering area.

**E.** Other Parking in Residential Areas. Parking in residential areas (off-street and on-street) shall be limited to the use of the residents of those homes. Except for short term parking (eight hours or less) and guest parking, the number of vehicles parked on or in front of a residential lot shall not exceed double the number of persons residing on the premises and having automobile licenses.

**F.** Off-Street Space Required (One Space Equals 300 Square Feet).

**1**. One and Two Family Residences. Two spaces per dwelling unit.

**2.** Multiple Dwellings. One and one-half spaces per dwelling unit.

**3.** Business and Professional Offices. One space for each 200 square feet of gross floor space.

**4**. Medical and Dental Clinics. Five spaces per doctor or dentist, plus one space for each employee.

**5.** Hotel or Motel. One space per rental unit plus one space per full-time employee.

**6.** Schools.

**(a)** Elementary Schools. Two spaces for each classroom.

**(b)** High School. At least one parking space for each four students based on design capacity, plus one additional space for each classroom.

**7.** Colleges. At least one space for every two employees plus one space for every car permitted to students by the college.

**8.** Hospital. At least one parking space for each three hospital beds, plus one space for each four employees, other than doctors, plus one parking space for each resident and regular staff doctor.

**9**. Drive-in Food Establishment. One space for each 15 square feet of gross floor space in building allocated to drive-in operation.

**10**. Bowling Alley. Six spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant.

**11**. Automobile Service Station. At least two off-street parking spaces plus four off-street parking spaces for each service stall.

**12**. Retail Store. At least one off-street parking space for each 250 square feet of gross floor area.

**13**. Restaurants, Cafes, Bars. At least one space for each three seats based on capacity design.

**14**. Undertaking Establishments. Eight spaces for each chapel or parlor plus one space for each funeral vehicle maintained on the premises. Aisle space shall also be provided for the street of making up a funeral procession.

**15**. Theaters, Auditoriums, Mortuaries, Stadiums, Arenas, Dance Halls, and Other Places of Assembly. Spaces equal in number to one-third of the capacity in persons.

**16**. Churches. Spaces equal in number to one-third of the capacity in persons of the main sanctuary or auditorium plus provisions for supplementary parking space needs for other portions of the church facilities as determined by final site and building plans when reviewed by the Planning Commission.

**17.** Industrial, Warehouse, Storage, Handling of Bulk Goods. At least one space for each employee on maximum shift or one space for each 2,000 square feet of gross floor area, whichever is larger.

**18.** Uses Not Specifically Noted. As determined by the Council following review by the Planning Commission.

**G. Off-Street Loading and Unloading Areas.**

**1.** Location. All required berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way and at least 50 feet from a Residential District unless within a building. Loading berths shall not occupy the required front yard space.

**2.** Size. Unless otherwise specified in this chapter, a required loading berth shall not be less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.

**3**. Required Loading Spaces. Determined by the Council following review by the Planning Commission.

**4.** Access. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.

**5**. Surfacing**.** All loading berths and accessways shall be improved with a durable material to control the dust and drainage.

**6**. Accessory Use**.** Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this chapter shall not be used for the storage of goods, inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.

**7.** In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space.

**8.** Where noise from loading or unloading activity is audible in a Residential District, the activity shall terminate between the hours of 7:00 P.M. and 7:00 A.M. except for the loading and unloading of grain.

**Subd. 25. Auto Service Station Standards.**

**A**. **Lot Size.** A service station site shall be a minimum of 20,000 square feet in size.

**B. Setbacks.** The building or buildings shall be set back at least 35 feet from the street right-of-way. Near Residential Districts, the service station buildings, signs, and pumps shall be a minimum of 25 feet from adjoining property. In commercial areas, the structures shall be set back at least ten feet from adjoining property.

**C. Curb and Gutters**. Concrete curbs and gutters shall be installed on all streets giving access to the station. There shall be a six inch curb along all interior driveways.

**D. Fencing and Screening.** When adjacent to residential property, there shall be a screening fence. When adjacent to commercial property, there shall be a bumper-type fence about 18 inches high between the station and the adjacent commercial property.

**E. Vehicles.** No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be waiting service longer than 15 days.

**F. Exterior Storage.** Exterior storage besides vehicles shall be limited to service equipment and items offered for sale and those items listed in Subparagraph I, below. Exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise.

**G. Screening**. All areas utilized for the storage or disposal of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean, and safe manner.

**H. Architecture.** The station shall be of a design that is compatible with the surroundings.

**I. Outdoor Displays.** The storage of used tires, batteries, and other such items for sale outside the building shall be controlled; such items shall be displayed in specially designated containers and be limited to one or two areas well back from the street right-of-way line. Junk cars, empty cans, and other unsightly materials will not be permitted in an area subject to public view. J. Lighting. Lights shall be designed and placed in such a manner as to direct the light away from residential areas.

**J. Lighting.** Lights shall be designed and placed in such a manner as to direct the light away from residential areas.

**K. Other Activities.** Business activities not listed in the definition of service stations and not incidental to the business in this chapter are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following: (1) automatic car and truck wash; (2) rental of vehicles, equipment, or trailers; and, (3) general retail sales. Gas pumps located at and a part of other types of business establishments shall require a conditional use permit.

**Subd. 26. Drive-in Business Standards.**

The following standards shall apply to drive-in businesses in all districts.

**A. Design Standards**.

**1.** The entire area of any drive-in business shall have a drainage system approved by the City Engineer.

**2.** The entire area other than that occupied by structures or planting shall be surfaced with a hard-surface material which will control dust and drainage.

**3.** A fence or screen of acceptable design not over six feet in height or less than four feet shall be constructed along the property line abutting a Residential District and such fence or screen shall be adequately maintained.

**B. General.**

**1.** Any drive-in business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service seating area.

**2.** The hours of operation shall be set forth as a condition of any building permit for drive-in business.

**3.** Each drive-in business serving food may have outside seating.

**4.** Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one refuse receptacle per ten vehicle parking spaces within the parking area.

**5.** Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within 300 feet of any residential dwelling unit.

**6.** No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.

**C. Locations.**

**1.** No drive-in business shall be located within 200 feet of a public or parochial school or church.

**2.** No drive-in business shall be located such that it may increase traffic volumes on nearby residential streets.

**3.** No drive-in shall be located on any street other than one designated as a thoroughfare or business service road in the policies plan.

**D. Site Plan**.

**1.** The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.

**2.** A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.

**3.** Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.

**4.** The design of any structure shall be compatible with other structures in the surrounding area.

**Subd. 27. Agricultural Operations.**

All farms in existence upon the effective date of this chapter within the City limits shall be a permitted use where the operator can conduct a farming operation. However, all regulations contained in these performance standards shall apply to all changes of the farming operation which will cause all or part of the area to become more intensively used or more urban in character. Any structure exceeding $500.00 in value to be erected on a farm shall require a building permit and conform to all requirements of the State Building Code. The Council may require any farm operator to secure a conditional use permit to expand or intensify said operations in the event of the following:

**A.** The farm is adjacent to, or within 400 feet of any dwelling unit and may be detrimental to living conditions by creating safety hazards or by emitting noise, odor, vibrations or similar nuisances.

**B.** The farming operations are so intensive as to constitute an industrial type use consisting of the compounding, processing, and packaging of products for wholesale or retail trade.

**Subd. 28. Home Occupations.**

**A**. **General**. Home occupations shall be allowed as a conditional use in all Residential Districts subject to the following standards:

**1.** Not more than 25% of the gross floor area of the residence is used for this purpose.

**2.** Only articles made or originating on the premises shall be sold on the premises, unless such articles are incidental to permitted commercial service.

**3.** No articles for sale shall be displayed so as to be visible from any street.

**4.** No person is employed other than a member of the household residing on the premises.

**5.** No mechanical or electrical equipment is used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered.

**6.** No outside storage of material shall be allowed.

**7.** Conducting of the home occupation shall result in no change of outside appearance of the building.

**8**. Signs, not exceeding two square feet shall be allowed on the premises.

**9.** The home occupation shall conform to the standards in the State Building Code and the Uniform Fire Code.

**B. Retail Sales**. Home occupations allowing retail sales or employment of persons other than the members of the household residing on the premises may be permitted by conditional use permit if the following conditions are met:

**1.** Such occupation is carried on in the principal building.

**2.** Not more than 25% of the gross floor area of the residence is used for this purpose.

**3.** No articles for sale shall be displayed so as to be visible from any street.

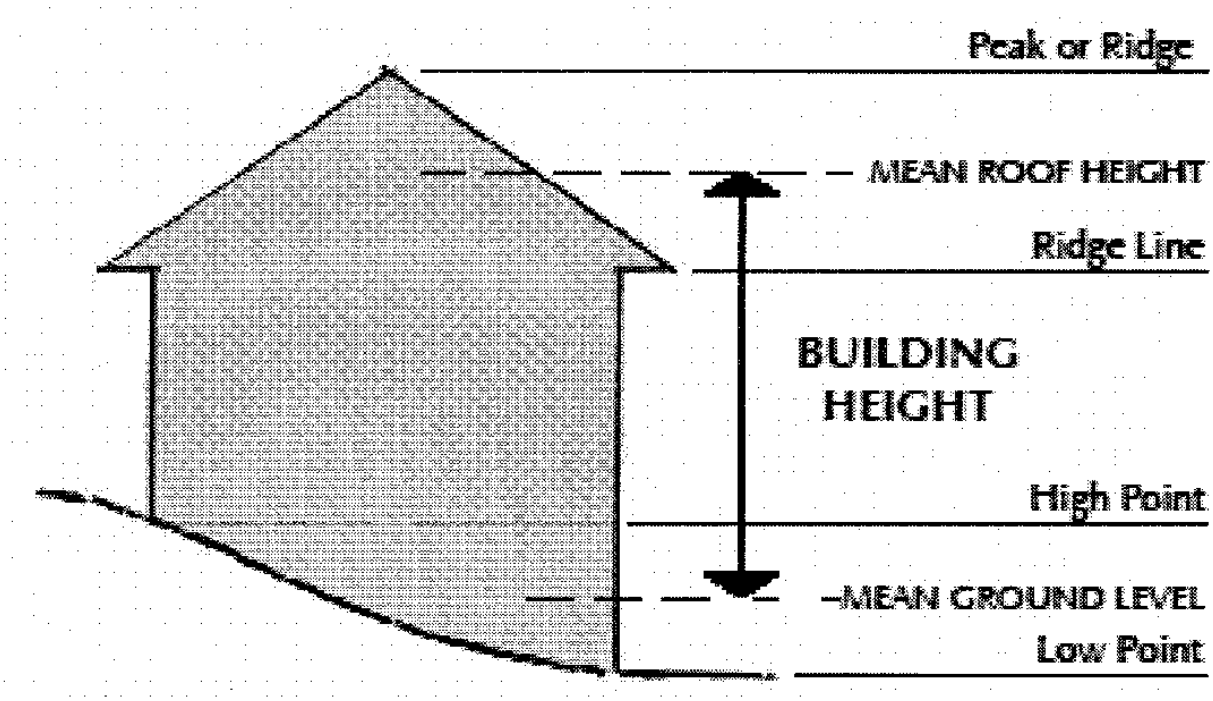
**4.** No mechanical or electrical equipment is used if the operation of such equipment interferes unreasonably with the desired residential environment of the neighborhood or if the health and safety of the residents is endangered.

**5.** Such occupation does not generate more than two vehicles at one time.

**6.** Such occupation must provide off-street parking.

**Subd. 29. Building Height.**

**A.** "Building height" shall be defined for the purposes of this Chapter as a distance measured from the mean ground level to the mean height of the roof as follows:




**B.** The specific regulation of building height within the various zoning districts shall be as set forth in those sections of this Chapter.

**C.** No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than 25% of the area of such roof nor exceed ten feet unless otherwise noted.

**D.** The building height limits established herein for districts shall not apply to the following:

**1.** Belfries.

**2.** Church spires.

**3.** Cupolas and domes which do not contain usable space.

**4.** Clock towers.

**5.** Flagpoles.

**6.** Parapet walls extending not more than three feet above the limiting height of the building.

**7.** Poles, towers and other structures for essential services.

**8.** Necessary mechanical and electrical appurtenances, including, but not limited to, chimneys or flues, cooling towers or elevator penthouses.

**9.** Agricultural buildings on farm properties.

**10.** Grain elevator.

**11.** Wind energy conversion system towers as regulated by Section 11.73, Subdivision 2 of this Chapter.

**12.** Monuments and scenery lofts.

**Subd. 30. Single Family Dwellings.**

All single-family detached homes except in approved manufactured home parks shall:

**A.** State Building Code: Be constructed upon a continuous perimeter foundation that meets the requirements of the State Building Code.

**B.** Measurements: Not be less than 30 feet in length and not less than 22 feet in width over that entire minimum length. Width measurements shall not take into account overhangs and other projections beyond the principal walls. Dwellings shall also meet the minimum floor area requirements as set out in this Chapter.

**C.** Roof: Have an earth covered, composition, metal, shingled or tiled roof.

**D.** Receive A Building Permit: The application for a building permit in addition to other information required shall indicate the height, size, design and the appearance of all elevations of the proposed building and a description of the construction materials proposed to be used, and the delineation of future deck, porch and/or garage additions whether or not such construction is intended. The exterior architectural design of a proposed dwelling may not be so at variance with, nor so similar to, the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor so at variance with the character of the surrounding neighborhood as to adversely affect the public health, safety or general welfare.

**E.** Requirements: Meet the requirements of the State Building Code or the applicable manufactured housing code.

**Subd. 31. Animals.**

**A.** Purpose. The purpose of this Section is to provide standards for the keeping of animals in association with various allowed uses in a manner compatible with surrounding uses and consistent with the health, safety, and general welfare of the community.

**B.** Keeping Animals. The following animals may be kept in the City:

**1.** The keeping of house pets is a permitted accessory use in all agriculture/rural and residential zoning districts.

**(a)** Not more than three dogs over six months of age shall be allowed to be kept except as a licensed kennel allowed within the respective zoning district in which the animals are located.

**2.** The keeping of horses is a permitted accessory use in all Agricultural District provided:

**(a)** The minimum lot size is two and one-half acres.

**(b)** The number of horses does not exceed one per acre unless a higher number is granted by the issuance of a conditional use permit.

**3.** The keeping of farm animals in numbers or conditions not defined as an "animal feedlot" is an allowed activity on all farm property. Farm animals may not be confined in a pen, feedlot or building within 100 feet of any residential dwelling not owned or leased by the farmer. Uses defined as animal feedlots shall be regulated by Section 11.70, Subdivision 31, Letter C of this Chapter.

**4.** With the exception of the keeping of animals allowed by Subsections 1, 2, and 3 of this Subdivision, no other animals are allowed except by interim use permit as regulated under the provisions of Section 11.18 of this Chapter.

**5.** Animals may only be kept as a kennel defined by this Chapter or otherwise for commercial purposes if authorized in the zoning district in which the animals are located.

**6.** Animals may not be kept if they cause a nuisance or endanger the health or safety of the community.

**C.** Animal Feedlots.

**1.** Purpose: The purpose of this subsection is to provide for the operation of animal feedlots within the city of Pine Island as to:

**(a)** Prohibit establishment of new animal feedlots or expansion of existing animal feedlots to levels not compatible with the existing or planned character of the City.

**(b)** Allow for continuance of existing animal feedlots at present intensities in agricultural zoned areas while protecting land use compatibility in recognition of ongoing growth and development of the community.

**(c)** Provide regulations that can be applied in an equitable manner to promote best farm management practices, protect valuable ground and surface water resources, minimize environmental effects and protect human and animal health, safety and welfare.

**2.** Feedlots Prohibited:

**(a)** No new animal feedlots shall be established within the City after June 21, 2011.

**(b)** No animal feedlot established prior to June 21, 2011, shall be allowed to expand its operations beyond its permitted level on June 21, 2011, subject to Section 11.70, Subdivision 31, Letter C3 of this Chapter.

**(c)** No farm property or other property allowed to keep farm animals with ten animal units or less established prior to June 21, 2011, shall expand to more than ten animal units.

**3.** Nonconforming Use: Animal feedlots established prior to June 21, 2011, may continue operations as legal nonconforming uses as allowed by Section 11.03 of this Chapter. For the purposes of interpreting expansion of a nonconforming use applicable only to this subdivision, only those activities or actions that result or may result in an increase in the number of animal units that an animal feedlot is capable of holding or an increase in the capacity of a manure storage area shall be considered to be an expansion of the use and are prohibited.

**4.** Performance Standards:

**(a)** Setbacks:

**(1)** The following setbacks shall be required for all manure storage facilities, stockpiles and application in addition to the requirements of the zoning district in which the use is located:

| Category | Animal Building | Manure Storage/Stockpile | Manure Application |
|---|---|---|---|
| Public lake | 1,000 feet | 1,000 feet | 1,000 feet |
| Public river or stream, public or private ditch | 300 feet | 300 feet | 300 feet |
| Wells serving the public, schools or childcare centers | 200 feet | 200 feet | 200 feet |
| Private wells | 100 feet | 100 feet | 100 feet |
| Public street | 300 feet | 300 feet | 300 feet |
| Residence other than owned by the feedlot owner/operator | 100 feet | 100 feet | 100 feet |
| Wetland | 75 feet | 75 feet | 75 feet |

**(2)** Within the Agricultural District, no new residential dwelling shall be constructed within 1,000 feet of an existing animal feedlot except dwellings constructed as a principal residence on the same parcel and under the same ownership of the owner of the animal feedlot.

**(3)** The separation distances established between an animal feedlot and the categories of uses established by Section 11.70, Subdivision 31, Letter C4a(1) and Letter C4a(2) of this Chapter shall be measured from the perimeter of the animal feedlot, manure storage facility or stockpile or land application to the nearest structure or boundary of the referenced category.

**5.** Facility Closure:

**(a)** The landowner, owner and operator of an animal feedlot shall have joint and several liability for closure or remediation of discontinued feedlot operations.

**(b)** If an animal feedlot ceases operation, the responsible parties shall provide for the following:

**(1)** All manure from the animal feedlot and its storage facilities shall be removed and applied or disposed of in some other permissible manner within a period not to exceed one year.

**(2)** The City and the county feedlot officer shall be notified within 60 days that the animal feedlot has ceased operations and that the property is in compliance with this Section.

**6.** Other Requirements: Compliance with all federal, state and local statutes, rules, codes, ordinances, requirements and standards shall be required.

**7.** Emergency Notification: In the event of a manure leak or spill, the owner, operator or individual responsible for the transport and application of manure shall immediately notify the City of Pine Island, Minnesota Duty Officer and either the Olmsted County or Goodhue feedlot officer and shall take appropriate actions in accordance with those agencies to prevent harm to public safety, health, and welfare.

**Subd. 32. Minimum Floor Area Per Dwelling Unit.**

**A**. Single-Family Dwelling Units: Except as otherwise specified in the zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, single-family dwelling units as classified below shall have at least three livable rooms contained in each dwelling unit and shall have the following minimum floor areas per unit.

| | |
|---|---|
| 1 and 2 bedroom | 816 square feet above grade |
| 3 bedrooms or more | 960 square feet above grade |

**B.** Multiple-family Dwelling Units: Except as otherwise specified in zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, living units classified as multiple dwelling (excepting senior housing) shall have the following minimum floor areas per unit:

| | |
|---|---|
| Efficiency units | 500 square feet |
| 1 bedroom units | 700 square feet |
| 2 bedroom units | 800 square feet |
| More than 2 bedroom units | An additional 80 square feet for each additional bedroom |

**C.** Senior Housing Dwelling Units: Except as otherwise specified in the Zoning District provisions, or except as allowed by Conditional Use Permit based upon justifiable cause, living units classified as senior housing units shall have the following minimum floor areas per unit:

| | |
|---|---|
| Efficiency units | 440 square feet |
| 1 bedroom | 520 square feet |
| More than 1 bedroom units | An additional 80 square feet for each additional bedroom |

**D.** Two-Family and Townhouse Dwelling Units: Except as otherwise specified in the Zoning District provisions, or except as allowed by conditional use permit based upon justifiable cause, two-family and townhouses, as classified below, shall have the minimum floor area per unit:

| | |
|---|---|
| Two-family | 650 square feet first floor above grade, plus 100 additional square feet for each bedroom |
| Townhouses | 600 square feet first floor above grade, plus 100 additional square feet for each bedroom |

**Subd. 33. Building Design and Construction Standards.**

Buildings in all zoning districts shall maintain a high standard for exterior architecture to ensure a high quality of development and land use compatibility that contribute positively to community image in regard to material quality, visual aesthetics, permanence and stability and to prevent use of materials that are unsightly, deteriorate rapidly, contribute to depreciation of area property values, or cause urban blight.

**A.** General Provisions:

**1.** Review Procedures: For all new buildings and building exterior renovations, the applicant shall submit building elevations and associated drawings that illustrate the construction techniques to be uses in the installation of the materials as part of the required site plan submittals identified in Section 11.22 of this Chapter.

**2.** General Design Concept: Building and/or project designs shall utilize materials, colors, or details to meet the intent of these architectural standards.

**3.** Design Elements: Projects may be required to utilize building ornamentation features, including, but not limited to: columns, arches, parapets, cornices, friezes, canopies, moldings, dentils, corbels, quoins, rustication, vaults, domes, and cupolas.

**B.** Exterior Building Finishes: For the purpose of this subsection, materials shall be divided into grade A, grade B, grade C, grade D and grade E categories as follows:

**1.** Grade A:

**(a)** Brick.

**(b)** Natural or artificial stone.

**(c)** Glass.

**(d)** Copper panels.

**2.** Grade B:

**(a)** Integral color specialty concrete block such as textured, burnished block or rock faced block.

**(b)** Integral color architecturally precast concrete panels having an exposed aggregate, light sandblast, acid etch, form liner, tooled, natural stone veneer, brick face and/or cast stone type finish.

**(c)** Masonry stucco.

**(d)** Ceramic.

**3.** Grade C:

**(a)** Exterior insulation and finish system (EIFS).

**(b)** Opaque panels.

**(c)** Ornamental metal.

**(d)** Fiber-cement exterior siding.

**4.** Grade D:

**(a)** Integral color smooth as cast concrete block.

**(b)** Integral color smooth scored concrete block.

**(c)** Integral color smooth as cast concrete panels.

**(d)** Integral color architecturally precast concrete panels having a smooth as cast finish.

**(e)** Glass block.

**(f)** Wood provided that the surfaces are finished for exterior use or the wood is of proven durability for exterior use, such as cedar, redwood or cypress.

**5.** Grade E:

**(a)** Steel, aluminum.

**6.** Grade F:

**(a)** Vinyl.

**7.** Steel or Aluminum Buildings: Except in association with farms, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as COR-TEN steel shall be permitted in any zoning district.

**8.** Integral Color: For the purpose of this section, exterior finish materials requiring integral color shall not include natural gray.

**9.** Foundations: Building foundations not exceeding one foot and other such portions of a building's facade below the elevation of the first floor need not comply with the requirements for the primary facade treatment or materials.

**10.** Exceptions: Garage doors, window trim, flashing accent items and the like, shall not constitute required materials that make up the exterior finish of a building for the purposes of this subdivision.

**C.** Residential Uses:

**1.** The primary exterior building finish for residential uses shall consist of grade A, B, C, D, E and/or F materials.

**2.** Required use of exterior building materials for buildings within the R-4 Multiple Family Residential District shall be as set forth by the respective Zoning District.

**D.** Commercial, Office and Institutional Uses: The exterior of commercial, office and institutional buildings shall include a variation in building materials and forms to be distributed throughout the facade and coordinated into the design of the structure to create an architecturally balanced appearance and shall comply with the following requirements:

**1.** The exterior building finish shall use at least three grade A materials.

**2.** The exterior building finish shall be composed of at least 65% grade A materials; not more than 35% grade B or grade C material and not more than 10% grade D materials.

**3.** All sides of the principal and accessory structures are to have essentially the same or coordinated harmonious exterior finish treatment.

**E.** Industrial Uses:

**1.** The primary exterior building finish for buildings within industrial districts shall consist of grade A, B, C, D and/or E materials.

**2.** Steel or aluminum curtain wall panels (nonstructural, nonload bearing) shall be allowed within industrial districts provided that:

**(a)** The panels are factory fabricated and finished with a durable nonfade surface and their fasteners are of a corrosion resistant design.

**(b)** The building shall be required to be faced with grade A, B, C or D material on wall surfaces abutting public right-of-way, a nonindustrial zoning district, an adjacent industrial building with brick, wood, stone or decorative concrete wall surfaces, residential uses, or public areas. The required wall surface treatment may allow a maximum of 50% of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design and is similar to the building frontage.

**F.** Other Requirements:

**1.** One Grade A Material: Buildings may be constructed primarily of one specific grade A material provided the design is obviously superior to the general intent of this chapter, provides variation in detailing, footprint of the structure or deviations in long wall sections to provide visual interest.

**2.** Color Variations: Minor blended color variations shall not be considered as a separate material, except that a distinctively different color of brick may be considered as a second grade A material.

**3.** Primary Material: To be counted as a primary material, the product shall comprise at least 5% of the exterior wall.

**4.** Back of Parapets: The back of parapets that are visible shall be finished with materials and colors compatible with the front of the parapet.

**5.** Exposed Roof Materials: Exposed roof materials shall be similar to, or an architectural equivalent of a 300 pound or better asphalt or fiberglass shingle, wooden shingle, standing seam metal roof or better.

**6.** Contrasting Colors: Use of contrasting colors for building elements such as cloth or metal awnings, trim, banding, walls, entries or any portion of the overall building shall be minimized, but in no case shall such coloring exceed 10% of each wall area.

**7.** Accessory Structures:

**(a)** Except in the AG Agricultural zoning district, all accessory buildings in excess of 200 square feet that are accessory to residential dwelling units shall be constructed with a design and exterior building materials consistent with the general character of the principal structure on the lot.

**(b)** Accessory buildings for nonresidential uses, including those allowed in the residential districts, shall be of a similar character, design, and facade as the principal structure.

**8.** Expansions:

**(a)** Additions of less than 50% of the floor area of the existing building may use the same or higher grade materials as the existing structure.

**(b)** Not more than one exterior wall designed for removal to allow future building expansion may be allowed to use grade D materials notwithstanding other applicable provisions of this section provided that the wall does not face a public street.

**G.** Exceptions: Exceptions to the provisions of this Subdivision may be granted as a conditional use subject to the following criteria:

**1.** The use is an essential service as defined by this Chapter; or

**2.** The applicant shall have the burden of demonstrating that:

**(a)** The proposed building maintains the quality in design and materials intended by this Chapter.

**(b)** The proposed building design and materials are compatible and in harmony with other structures within the district.

**(c)** The justification for deviation from the requirements of this Section shall not be based on economic considerations.

**SEC. 11.71 SIGNS**. (Repealed, Ord. No. 118, Second Series), (Added, Ord. No. 118, Second Series)

**Subd. 1 Purpose.**

The sign regulations contained herein are intended to control the use of publicly visible displays or graphics in order to:

**A**. Equitably distribute the privilege of using the public environs to communicate private information.

**B.** Safeguard the public use and nature of the streets and sidewalks.

**C.** Enhance the visual environment, of the City.

**Subd. 2 Excluded Signs.**

The following shall be deemed to be excluded from the definition of "sign" as it applies to this section:

**A.** Any sign with an area of one square foot or less.

**B.** Signs on store windows, but in no case shall exceed twenty five percent (25%) of the window area.

**C**. Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal devices, or washings at railroad crossings.

**D.** Publicly owned memorial tablets or signs.

**E.** Signs required to be maintained by law or governmental order, rule or regulation; provided, that they do not exceed forty-eight (48) square feet.

**F.** Signs directing traffic on private property, but bearing no advertising matter.

**G.** Signs displayed for the direction or convenience of the public, including signs which identify rest rooms, location of public telephones, public entrances, freight entrances, or the like, with a total surface area not to exceed six square feet per sign on any lot or parcel.

**H**. Signs not exceeding forty-eight (48) square feet in area relating to active construction projects.

**I.** Yard sale signs; provided that no person shall attach in any way posters, notices or advertisements to utility poles, meter posts, or trees in or along any street right-of-way within the City, and that no person shall put up any notice upon any building, wall or fence or other property of another person without having first obtained the consent of the owner of such property. The maximum time limit for all yard sale or garage sale signs is ten consecutive days.

**J.** Gasoline price signs; provided the total area of such signs is less than twelve (12) square feet.

**K.** At gasoline stations, up to two advertising signs of less than twenty (20) square feet each, which are located at least ten feet from the property boundary.

**L.** Temporary signs, provided they conform to Subdivision 6 of this section.

**Subd. 3 Measurement of Sign Area.**

Sign area shall be calculated as follows:

**A. Attached and Suspended Signs.**

**1.** The area of an attached sign where the sign consists of letters, numerals, or symbols painted on or affixed to a wall shall be the entire area within a continuous perimeter enclosing the extreme limits of the message delineated by said letters, numerals or symbols.

**2.** The area of an attached or suspended sign where the letters, numerals, or symbols are on a sign surface which is hung or affixed to a structure shall be the total area of the hung or affixed surface.

**B. Freestanding Signs.** The area of a freestanding sign shall be the sum total of the areas of all surfaces (excluding poles) visible from the public right-of-way or other area from which the sign is intended to be viewed. Only one display face shall be measured in computing total sign area where the sign faces are arranged to be viewed one at a time.

**Subd. 4 Sign Permits.**

**A.** No sign that was not in existence or "in place" on September 27, 1996, shall hereafter be displayed, nor shall any existing sign be enlarged, relocated, changed or modified until a zoning permit for the same has been obtained in accordance with this section and all other applicable regulations. Maintenance, repair or restoration of non-conforming signs must be in accordance with Subdivision 8 of this section and require a permit.

**B.** Every application for such permit shall include the exact area, size, structure, design and location proposed for the sign.

**Subd. 5 Prohibited Signs.**

The following signs shall not be allowed:

**A.** A sign which copies or imitates or in any way approximates an official highway sign or carries the words "STOP" or "DANGER"; or any sign which obscures a sign displayed by public authority for the purpose of giving traffic instruction or direction or other public information.

**B**. A sign which displays flashing or intermittent lights or lights of changing degrees or intensity unless each interval in the cycle is five seconds or more and the sign does not constitute a traffic hazard.

**C.** A sign which obstructs any window or door opening used as a means of egress or prevents free passage from one part of a roof to any other part thereof. A sign which interferes with an opening required for legal ventilation.

**D.** A sign in a public right-of-way that in any way interferes with normal or emergency use of that right-of-way. 'Any sign allowed in a public right-of-way may be ordered removed by the City Administrator upon thirty (30) days notice if the normal or emergency use of that right-of-way is changed to require its removal.

**E.** A sign or illumination that causes any direct glare into or upon a public right-of-way or building other than the building to which the sign is intended.

**F.** A sign that violates any provision of any State law or Federal law relative to outdoor advertising.

**G.** Any advertising sign located within six hundred feet (600') of any interchange or intersection at grade, or any interstate, freeway or highway, to the nearest point of said intersection right-of-way.

**H.** Moving signs, except revolving signs, pennants, streamers, as provided in Subdivision 6, below, and A-frames, small balloons, string lights, strip lighting outlining structures and used to attract attention for commercial purposes.

**I.** Signs attached or mounted on abandoned, unlicensed, or inoperative vehicles.

**Subd. 6 Temporary Signs.**

**A.** Regardless of the status of conformity of all other on-premise signs, two temporary signs shall be allowed in all C-l, C-2, C-3, AG, I-1, I-2, BP, RR, PI and POS districts, provided the following:

**1.** Each sign is less than twenty (20) square feet in area;

**2.** Each sign is an attached on-premise sign;

**3.** That such signs are displayed no more than fourteen (14) consecutive days;

**4.** That no establishment may display a temporary sign more than four (4) times per calendar year.

**B.** The establishment wishing to display such sign shall contact the office of the Zoning Administrator prior to displaying, to give notice of the intent, and the period during which the sign will be displayed. No permit is required.

**Subd. 7 Non-Conforming Signs.**

**A. Generally.** In cases where signs existing as a non-conforming use on property exceed the total allowable sign area, no additional signs shall be permitted for an establishment. If the size or configuration of the parcel or building is changed, signs of the resulting properties shall be required to conform to the sign regulations applicable to the newly created parcel or parcels at the time such change becomes effective.

**B. Maintenance.** All non-conforming signs shall be maintained and repainted and shall not be maintained in such manner as to increase the degree of non-conformity. A non-conforming sign may be repaired provided it is not damaged in excess of fifty percent (50%) of its replacement value. Such damaged sign may not be expanded or relocated. It may not be reconstructed or moved without being made to comply in all respects with the provisions of this section. In cases where a "marquee" non-conforming sign exists with plexiglass faces, these faces may be changed if damaged or if the sign message is desired to be changed.

**Subd. 8 Damaged or Unsafe Signs.**

The Zoning Administrator shall require the immediate repair or removal of any sign(s) or sign structure(s) which has been damaged or has deteriorated so as to become a public hazard. Such sign(s) or sign structure(s) may be restored to their original condition within thirty (30) days of written notice, or owner(s)/tenant(s) will be ordered to remove the sign(s) or eliminate hazardous condition(s). If the subject sign(s) are nonconforming, such restoration shall be in accordance with Subdivision 7 of this section.

**Subd. 9 Non-Conforming Sign Removal.**

Upon vacating premises, a tenant, or in tenant’s absence, the owner, shall remove all non-conforming signs, sign supports and attendant hardware, within thirty (30)(days from the day the premises is vacated.

**Subd. 10 Conforming Sign Removal.**

All conforming signs, sign supports, and attendant hardware not used by a new tenant or new owner shall be removed by new owner(s)/tenant(s) within three months of the premises being vacated.

**Subd. 11 Permitted Signs.**

Signs shall be permitted which are in accordance with:

**A.** The general provisions of this section.

**B.** The district sign regulations of this section for the district in which such signs are located.

**C.** All applicable provisions of the Building Code as adopted, and all amendments thereto.

**D.** All applicable County and State regulations.

**Subd. 12 (AG) - Agriculture District.**

**A.** The following shall apply:

| Permitted Signs | Permit Required | Maximum Size Square Feet |
|---|---|---|
| Business | Yes | 100 |
| Home Occupation | Yes | 4 |
| Directional | Yes | 2 |
| Temporary | See Subdivision 6 | 100 |
| Agricultural Product | Yes | 100 |
| Real Estate | Yes | 20 |
| Identification | Yes | 30 |
| Public Service | Yes | 30 |

**B. Location.** No sign shall be placed on the property line or public right-of-way. On corner lots all signs must be located at least five feet from the property line.

**C. Height Limitation.** No sign shall exceed thirty-five feet (35') in height, nor shall any attached sign extend above the height of the building to which it is attached.

**D. Special Sign Regulations.** No signs shall be permitted except on the premises being advertised.

**E. Temporary Signs.** Temporary signs, subject to review by the Zoning Administrator according to Subdivision 6 of this section.

**Subd. 13 (R-1, R-2, R-3 and R-4) - Residential Districts.**

**A.** The following shall apply in the R-l, R-2, R-3 and R-4 Residential Districts:

| Permitted Signs | Permit Required | Maximum Size Square Feet |
|---|---|---|
| Real Estate | No | 6 |
| Identification | Yes | 50 |
| Directional | Yes | 2 |
| Home Occupation | Yes | 4 |
| Temporary | See Subdivision 6 | 2 |
| Public Service | Yes | 20 |
| Professional | Yes | 15 |

**B. Location.** No sign shall be placed on the property line or public right-of-way. On corner lots all signs must be located at least five feet from the property line.

**C. Height Limitation.** No sign shall exceed eight feet in height.

**D. Special Sign Regulations.** Home occupation signs must be attached signs.

**E. Lighting.** Unshielded light sources shall not be directly visible from surrounding properties and all lighting shall be subdued.

**F. Temporary Signs.** Temporary signs, subject to review by the Zoning Administrator according to Subdivision 6 of this section.

**Subd. 14 (C-1) - Central Business District.**

**A.** The following shall apply:

| Permitted Signs | Permit Required | Maximum Size Square Feet of Total Sign Area |
|---|---|---|
| Real Estate | No | All attached frontage signs shall not exceed 100 square feet; the sign height shall not exceed 50% of the total sign width; the width of a sign shall not exceed the width of the building frontage; signs on building sides or rear shall not exceed 50% of all frontage restrictions. Free standing signs shall not exceed a maximum height of 16 feet and a maximum of 75 square feet. |
| Business | Yes | |
| Identification | Yes | |
| Temporary | No | |
| Directional | Yes | |
| Public Service | Yes | 20 |

**B. Location.** No sign shall be placed on the property line or public right-of-way. On corner lots all signs must be located at least five feet from the property line.

**C. Height Limitation.** No freestanding sign shall exceed sixteen feet (16') in height, nor shall any attached sign extend above the height of the building to which it is attached.

**D. Minimum Freestanding Sign Clearance.** No freestanding sign shall be less than nine feet (9'), measured from ground level to the lowest edge of said sign.

**E. Number of Signs Permitted.** Excluding public service signs, a maximum of two (2) signs except a corner lot occupied by a single establishment shall be allowed up to three (3) signs, as defined herein.

**F. Projected Signs.** Shall not exceed twenty-four 24 square feet in size, and no less than eight feet (8') from the ground level to the lowest edge of said sign.

**G. Freestanding Signs.** On lots with public street right-of-way frontage of between one hundred feet (100') and one hundred and fifty feet (150'), and a building setback of at least fifteen feet (15'), one (1) freestanding sign will be allowed.

**H. Temporary Signs.** Temporary signs, subject to review by the Zoning Administrator, according to Subdivision 6 of this section.

**I. Special Sign Regulations for Gasoline Service Stations.** Gasoline service stations are allowed a total area of signs not to exceed one hundred and thirty (130) square feet and the following types of signs:

**1. Freestanding Signs for Service Stations.** In addition to Subparagraph G, above, a service station or a parcel with at least two hundred feet (200') of street frontage shall be permitted one freestanding sign not to exceed sixteen feet (16') in height nor exceed seventy-five (75) square feet in area. Such sign posts/support structure shall be located five feet (5') or more from any street right-of-way. However, no sign copy shall extend into the public right-of-way.

**Subd. 15 (C-2 & C-3) - Highway & Neighborhood Commercial Districts.**

**A**. The following shall apply:

| Permitted Signs | Permit Required | Maximum Size Square Feet of Total Sign Area |
|---|---|---|
| Real Estate | No | 15 |
| Business | Yes | Total attached sign area shall not exceed 2.5 times the width of the building frontage or 100 square feet, whichever is less. |
| Identification | Yes | |
| Temporary | No | |
| Directional | No | |
| Public Service | Yes | 30 |

**1. Freestanding Sign.** Only one freestanding business sign is permitted per establishment with maximum height of thirty-five feet (35'), maximum size of two hundred (200) square feet, and minimum setback of five feet (5') from public right-of-way.

**B. Number of Signs Permitted.** Excluding public service signs, a maximum of three (3) signs per establishment shall be allowed as defined herein.

**C. Special Sign Regulations.** All signs must be attached signs with the following exceptions:

**1. Identification Signs.** Freestanding group identification signs announcing the name of churches, social organizations, and the time and place of meetings of civic clubs shall be permitted at the major entrances to the City. Such free-standing signs shall not exceed thirty feet (30') in height nor fifty (50) square feet in total area. Groupings of signs along the entrance routes to the City shall be designed as an integrated unit, shall be landscaped and shall follow location requirements set forth above.

**D. Required Frontage.** More than one (1) business may advertise on the same sign in shopping centers, subject to the limitations set forth in this subdivision.

**Subd. 16 (I-1, I-2 & BP) - Industrial and Business Park Districts.**

**A.** The following shall apply:

| Permitted Signs | Permit Required | Maximum Size Square Feet of Total Sign Area |
|---|---|---|
| Real Estate | No | A maximum of one square foot of sign area for each linear front |
| Business | Yes | feet of lot, not to exceed a Maximum of 150 square feet of |
| Advertising | Yes | sign area. |

However, if the sign is affixed flat against the building and does not extend above or beyond the dimensions of the building, then a maximum of two (2) square feet of sign area for each one and one-half (1 1/2) linear front feet of lot not to exceed a maximum of four hundred and fifty (450) square feet of sign area shall be allowed.

| | | |
|---|---|---|
| Temporary | No | |
| Identification | Yes | |
| Public Service | Yes | 50 |

**B. Location.** All freestanding signs shall be five feet (5') or more from any street right-of-way.

**C. Height Limitations.** No sign shall exceed thirty-five feet (35') in height. Unless the sign is affixed flat against the building and does not extend above or beyond the dimensions of the building, subject to the limitations in this Subdivision.

**D. Number of Signs Permitted.** Excluding public service signs, a maximum of three (3) signs per building shall be allowed as defined herein.

**E. Special Sign Regulations.** All signs must be attached signs with the following exceptions:

**1. Freestanding Signs.** Uses permitted in this district may also erect one freestanding sign. Such freestanding sign shall not exceed thirty-five feet (35') in height nor one hundred and fifty (150) square feet in area.

**2. Industrial Parks.** An industrial park in this district shall be permitted one freestanding identification sign. Such freestanding identification sign may list the names of the tenants as well as the name of the industrial area, its owners and developer. Such sign shall not exceed thirty-five feet (35') in height nor one hundred and fifty (150) square feet in area. Such signs shall follow location requirements set forth above.

**3. Identification Signs.** Freestanding group identification signs announcing the name of churches, social organizations, and the time and place of meetings of civic clubs shall be permitted at the major entrances of the City. Such freestanding signs shall not exceed thirty feet (30') in height nor fifty (50) square feet in total area. Groupings of signs along the entrance routes to the City shall be designed as an integrated unit and shall be landscape

**4. Freestanding Advertising Signs.** Freestanding advertising signs shall be allowed in this district provided not more than one sign is allowed per establishment. These signs preclude the use of freestanding business signs of any future business/industry locating on such parcel. Such freestanding advertising sign shall not be allowed if present use of property already has a freestanding sign on such parcel.

**Subd. 17 (RR) - Regional Recreational District.**

**A.** The following shall apply:

| Permitted Signs | Permit Required | Maximum Size Square Feet of Total Sign Area |
|---|---|---|
| Real Estate | No | A maximum of one square foot of sign area for each linear front feet of lot, not to exceed a Maximum of 150 square feet of sign area. |
| Business | Yes | |
| Advertising | Yes | |

However, if the sign is affixed flat against the building and does not extend above or beyond the dimensions of the building, then a maximum of two (2) square feet of sign area for each one and one-half (1 1/2) linear front feet of lot not to exceed a maximum of four hundred and fifty 450 square feet of sign area shall be allowed.

| | | |
|---|---|---|
| Temporary | No | |
| Identification | Yes | |
| Public Service | Yes | 50 |

**B. Number of Signs Permitted.** Excluding public service signs, One sign is allowed per lot, except that one additional sign shall be allowed when there is more than one (1) entrance from a major collector or arterial street.

**C. Height Limitations.** No sign shall exceed thirty-five feet (35') in height. Unless the sign is affixed flat against the building and does not extend above or beyond the dimensions of the building, subject to the limitations in this Subdivision.

**D. Freestanding Signs.** Uses permitted in this district may erect one (1) freestanding sign. Such freestanding sign shall not exceed one hundred (100) square feet in area and the sign shall be a monument type with a maximum height not to exceed ten feet (10').

**1. Location.** All freestanding signs shall be five feet (5') or more from any street right-of-way.

**E. Changeable Copy Signs.**

**1.** Within the allowed area of a freestanding sign, a maximum of forty (40) square feet of non-electronic changeable copy shall be allowed per frontage to a major collector or arterial street.

**2.** Wall, Canopy, Or Marquee Signs:

**a.** For single occupancy buildings, not more than one sign shall be allowed on one facade fronting a public street, except in the case of a corner lot or through lot where one additional one hundred (100) square foot wall sign may be installed on a second facade fronting a public street.

**b.** Additional signs not to exceed forty eight (48) square feet shall be allowed for each building entrance.

**Subd. 18 (PI) - Public/Institutional District.**

**A.** The following shall apply:

| Permitted Signs | Permit Required | Maximum Size Square Feet of Total Sign Area |
|---|---|---|
| Real Estate | No | A maximum of one square foot of sign area for each linear front feet of lot, not to exceed a Maximum of 100 square feet of sign area. |
| Business | Yes | |
| Advertising | Yes | |

However, if the sign is affixed flat against the building and does not extend above or beyond the dimensions of the building, then a maximum of two square feet of sign area for each one and one-half linear front feet of lot not to exceed a maximum of four hundred and fifty (450) square feet of sign area shall be allowed.

| | | |
|---|---|---|
| Temporary | No | |
| Identification | Yes | |
| Public Service | Yes | 50 |

**B. Number of Signs Permitted.** Excluding public service signs, One sign is allowed per lot, except that one additional sign shall be allowed when there is more than one entrance from a major collector or arterial street.

**C. Height Limitations.** No sign shall exceed thirty-five feet (35') in height. Unless the sign is affixed flat against the building and does not extend above or beyond the dimensions of the building, subject to the limitations in this Subdivision.

**D. Freestanding Signs.** Uses permitted in this district may erect one (1) freestanding sign. Such freestanding sign shall not exceed one hundred (100) square feet in area and the sign shall be a monument type with a maximum height not to exceed ten feet (10').

**1. Location.** All freestanding signs shall be five feet (5') or more from any street right-of-way.

**E. Changeable Copy Signs.**

**1.** Within the allowed area of a freestanding sign, a maximum of forty (40) square feet of non-electronic changeable copy shall be allowed per frontage to a major collector or arterial street.

**2.** Wall, Canopy, Or Marquee Signs:

**a.** For single occupancy buildings, not more than one sign shall be allowed on one facade fronting a public street, except in the case of a corner lot or through lot where one additional one hundred (100) square foot wall sign may be installed on a second facade fronting a public street.

**b.** Additional signs not to exceed forty eight (48) square feet shall be allowed for each building entrance.

**Subd. 19 (POS) - Parks and Open Space District.**

**A.** The following shall apply:

| Permitted Signs | Permit Required | Maximum Size Square Feet of Total Sign Area |
|---|---|---|
| Real Estate | No | A maximum of one square foot of sign area for each linear front |
| Business | Yes | feet of lot, not to exceed a Maximum of 100 square feet of |
| Advertising | Yes | sign area. |

However, if the sign is affixed flat against the building and does not extend above or beyond the dimensions of the building, then a maximum of two square feet of sign area for each one and one-half linear front feet of lot not to exceed a maximum of four hundred and fifty (450) square feet of sign area shall be allowed.

| | | |
|---|---|---|
| Temporary | No | |
| Identification | Yes | |
| Public Service | Yes | 50 |

**B. Number of Signs Permitted.** Excluding public service signs, One sign is allowed per lot, except that one additional sign shall be allowed when there is more than one entrance from a major collector or arterial street.

**C. Height Limitations.** No sign shall exceed thirty-five (35') in height. Unless the sign is affixed flat against the building and does not extend above or beyond the dimensions of the building, subject to the limitations in this Subdivision.

**D. Freestanding Signs.** Uses permitted in this district may erect one (1) freestanding sign. Such freestanding sign shall not exceed one hundred (100) square feet in area and the sign shall be a monument type with a maximum height not to exceed ten feet (10').

**1. Location.** All freestanding signs shall be five feet (5') or more from any street right-of-way.

**E. Changeable Copy Signs.**

**1.** Within the allowed area of a freestanding sign, a maximum of forty (40) square feet of non-electronic changeable copy shall be allowed per frontage to a major collector or arterial street.

**2.** Wall, Canopy, Or Marquee Signs:

**a.** For single occupancy buildings, not more than one sign shall be allowed on one facade fronting a public street, except in the case of a corner lot or through lot where one additional one hundred (100) square foot wall sign may be installed on a second facade fronting a public street.

**b.** Additional signs not to exceed forty eight (48) square feet shall be allowed for each building entrance.

**Subd. 20 Violation.**

A violation of any provision of this section by an owner, occupant or any other person constitutes a misdemeanor punishable by a fine not more than seven hundred dollars ($700.00) or imprisonment for not more than ninety (90) days, or both. Each day a violation exists constitutes a separate offense.

**Subd. 21 Repealer.**

All ordinances or City Code provisions in conflict with these provisions are hereby repealed.

**Subd. 22 Validity.**

In case any provision of this section is held invalid by a court of competent jurisdiction, invalidity shall extend only to the provision affected and other provisions of this section shall continue in full force and effect.

**Subd. 23 Applications.**

All applications for permits shall be made to the Zoning Administrator on a form prescribed by the City. The Zoning Administrator shall enforce the provisions of this section and grant all permits issued hereunder. Any person aggrieved by the decision of the Zoning Administrator shall have the right to file an appeal with the Planning Commission, which shall review the application, hear all evidence pertaining thereto as it deems fit and proper under the circumstances and either grant or deny the permit accordingly. All appeals to the Planning Commission shall be made within ten days after the decision in writing is made by the Zoning Administrator.

**Subd. 24 Permits.**

All sign and billboard permits issued under the provisions of this section and of section 11.72 shall expire within one year from the date of issue, unless applicant submits for a six (6) months extension in writing prior to the expiration date.

**SEC. 11.72 BILLBOARDS.** (Repealed, Ord. No. 118, Second Series), (Added, Ord. No. 118, Second Series

**Subd. 11 Purpose.**

The purpose of this section is to establish regulations governing all billboards in the City. The billboard regulations are intended to permit an efficient, effective and aesthetic means to communicate using off-premise signage while recognizing the need to maintain an attractive and appealing appearance in the community, including appearance along streets and property used for commercial, industrial, institutional and public development and the air space above and between such development. These regulations are intended to permit adequate signage for effective communication while minimizing or preventing visual clutter and visual pollution which can be caused by this signage.

**Subd. 2 Definitions.**

The terms "advertising sign" or "billboards" or posters and bulletins sometimes referred to as off-premises signs, painted or printed posters and painted or printed bulletins shall mean a sign which is erected and in use for the purpose of selling advertising space or which advertises products, events, goods or services, any part of which is not exclusively related to the premises on which the sign(s) is located.

**Subd. 3 General Provisions.**

**A.** A billboard is a structure or part of a structure for the purpose of applying yard regulations, except that billboards and their superstructures may extend into the required yard areas a distance not to exceed eighteen inches (18"), and billboards cannot be placed on the front or side walls of buildings.

**B.** Flashing signs on billboards are not permitted in any district.

**C.** Illuminated signs or devices giving off an intermittent steady or rotating beam consisting of a collection or concentration of rays of light shall not be permitted in any district. This includes, but is not limited to, search lights, beacons, strobe lights and the like.

**D.** No billboard shall be placed on a rooftop.

**E.** Changing billboards are permitted, including those signs which display any one of or a combination of the following: time, temperature and stock market indices.

**F. Maintenance.** All billboards and their components shall be kept in good repair in a safe, neat, clean and attractive condition. Signs in good repair are not corroded, do not have deteriorated paint or finished surfaces nor do they have loose members, broken parts, or similar deterioration.

**Subd. 4 Regulations.**

The following regulations shall apply to billboards, painted bulletins, painted posters and similar off-premises signs:

**A.** Billboards are permitted in the following zoning districts: C-2, I-1, I-2 and BP districts. Billboards are prohibited in all other zoning districts.

**B.** Billboards may be located only on Principal Arterials (US Highway 52) as designated in the Pine Island Comprehensive Plan, and County Road 5/12 within the Highway Commercial District (C-2) along US Highway 52.

**C.** No billboards may be located within three hundred feet (300') of an existing residential use or the R-l, R-2, R-3 and R-4 residential zoning districts, and C-l Central Business District.

**D.** No billboards may be located within one thousand seven hundred and fifty feet (1,750') of another billboard on either side of public right-of-way.

**E.** Distance requirements under this section shall be measured from the point of the billboard closest to the reference point along a straight line parallel to the ground level to the reference point. Reference point means the lot line of the residential use in the residential zone or other billboard for which distance requirements apply under this section.

**F.** All billboards constructed shall comply with setback requirements specified for structures under provisions of Chapter 11 Land Use Regulation (Zoning) of the City Code.

**G**. Billboards must be freestanding and are prohibited on rooftops, walls or structures.

**H**. The maximum sizes for billboards, including all extensions, is four hundred and fifty (450) square feet along County Road 5/12 within the Highway Commercial District (C-2) along US Highway 52, and seven hundred and fifty (750) square feet along Principal Arterials (US Highway 52) as designated in the Pine Island Comprehensive Plan.

**I**. The maximum height for billboards shall be no more than thirty-five (35'), including extensions, as measured from ground level to the highest point of billboard.

**Subd. 5 Non-Conforming Billboards.**

**A.** All existing billboards, painted bulletins, painted posters and similar off-premises signs which are not in conformance with the provisions of this section are subject to the following requirements:

**1.** A sign permit for a billboard shall not be issued for new construction on a lot where there is already a non-conforming billboard unless that existing billboard is removed and a new billboard is made to conform with the requirements of this section.

**2.** Billboards which have been destroyed or damaged, or in need of maintenance or repair, and the cost of such repair exceeds fifty percent (50%) of the market replacement value of such billboard, must be removed or made to conform with the requirements of this section.

**3.** The owner of a non-conforming billboard who wishes to replace it, modify it, or undertake any work requiring a sign permit for it must first obtain a special permit which may be granted only if the following conditions are met:

**a.** The non-conforming billboard cannot physically be made to conform with the requirements of this section or the billboard is non-conforming due to location in certain zoning districts; and

**b.** Items 1 and 2, above, do not apply; and

**c.** The new or modified billboard is at the same or another allowed location; and

**d.** The new or modified billboard is brought into greater conformance with the requirements of this section.

**B**. In determining greater conformance as a condition for granting a special permit, the new billboard must meet or exceed the following percentages of conformance otherwise required for at least four of the five following standards:

| **Category** | **Existing (2)** Location | **New (2)** Location |
|---|---|---|
| Spacing between signs | 75% | 75% |
| Setback | 67% | 80% |
| Size | 100% | 100% |
| Height * | 100% | 100% |
| Distance from residence | 67% | 75% |

***** Location means the legal lot of description of record.

**C.** In no event may the new billboard meet a percentage of compliance for any of the categories listed above that is less the percentage of compliance of the existing billboard. If a permit is granted under this provision, the existing non-conforming billboard must be totally removed prior to construction of the new billboard.

**Subd. 6 Permits.**

**A.** All sign and billboard permits issued under the provisions of this section and of section 11.71 shall expire within one (1) year from the date of issue, unless applicant submits for a six (6) months extension in writing prior to the expiration date.

**B.** Owner/tenant/contractor and/or other authorized personnel are required to obtain a building permit prior to the construction/installation of any billboard.

## SEC. 11.73. ALTERNATIVE ENERGY SYSTEMS.

### Subd. 1. Purpose.

The purpose of this chapter is to establish standards for alternative energy systems within the City.

### Subd. 2. Wind Energy Conversion Systems (WECS).

**A. Conditional Use Permit.** Each Wind Energy Conversion System shall require a conditional use permit.

**B. Plans**. Each application for a conditional use permit shall be accompanied by a dimensional representation of the tower including the conversion system, base, and footings and an accurate plan containing the following information:

**1**. Property lines.

**2.** Proposed location of tower on site.

**3.** Location of all existing structures on site,

**4**. All above ground utility lines.

**5**. All underground utility lines within a radius equal to the proposed WECS height.

**6**. Boundaries of all adjacent utility easements or reversed areas.

**C. WECS Height**. The total height of the tower (including any portion of the rotor or axis extending above the tower) shall not exceed the horizontal distance between the base of the tower and the nearest lot line or building line. Except, the horizontal distance may extend beyond the nearest lot line or building line provided there are no overhead utility lines or easements therefor or if the abutting area is a public alleyway. Furthermore, the Council may allow the height requirements to be exceeded provided it is satisfied that the proposed structure will withstand the windloads in the area. As evidence of this, the Council shall require the following information:

**1.** Dimensional representation of the various structural components of the tower construction including the base and footings.

**2.** Design data which shall indicate basis of design, including manufacturer's dimensional drawings, installation and operation instructions.

**3.** Certification by an independent registered professional engineer or sufficient to withstand wind load requirements for structures as established by the State Building Code.

**D. Tower Access**. Climbing access to the WECS tower shall be limited either by means of a fence six feet high around the tower base with a locking portal, or by limiting tower climbing apparatus to no lower than 12 feet from the ground.

**E. Wind Access**. Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than one single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted for approval.

**F. Noise**. A WECS operation shall not produce noise in excess of the limits established herein.

**G. Limited Use**. Wind energy conversion systems installed in accordance with the requirements of this Subdivision shall not generate power as a commercial enterprise as defined by the Public Utilities Commission.

**H. Electromagnetic Interference**. A WECS shall not be installed in any location along the major axis of an existing microwave communications link where the operation of the WECS is likely to produce an unacceptable level of electromagnetic interference and the possible effect on the microwave communications link of which is at a level satisfactory to the Zoning Administrator.

**I. Airspace**. A WECS shall be located or installed in compliance with the regulations of the airport approach zones and Federal Aviation Regulations for clearance around VOR and DVOR stations.

**J. Interconnect**. A WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the Electric Utility Company. In any case, the interconnect shall include a manual disconnect which complies with the National Electric Code.

**K. Codes**. Construction, design and installation of a WECS shall comply with all local, State and National Electrical Codes in effect at the time of installation.

**L. Liability.** No building permit shall be issued for the construction of a WECS until and unless the applicant for the building permit deposits with the Zoning Administrator a policy of liability insurance indemnifying applicant from liability for personal injury or property damage in the sum of at least $500,000.00. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least 30 days' written notice to the City before cancellation thereof, the building permit to be automatically revoked upon the lapse or termination of said policy.

**Subd. 3. Solar Energy Systems.**

**A. Purpose and Intent.** Pine Island finds that it is in the public interest to encourage the use and development of renewable energy systems (including SES) that have a positive impact on energy conservation with limited adverse impact on nearby properties. As such, the City supports the use of Solar Collection systems and the development of Solar Farms. Pine Island also finds that the development of Solar Farms should be balanced with the protection of the public health, safety and welfare. The City intends the following standards to ensure that Solar Farms can be constructed within the City while also protecting public safety and the natural resources of the City. Consistent with the Comprehensive Plan, it is the intent of the City with this section to create standards for the reasonable capture and use, by households, businesses and property owners, of their Solar Energy resource and encourage the development and use of Solar Energy.

**B. Severability.** The provisions of this section shall be severable and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph or subdivision of this section.

**C. Applicability.** These regulations are for all SES and Solar Farms on properties and structures under the jurisdiction of the zoning ordinance except that the City requires the owner or operator of solar farms that would generate more than fifty (50) megawatts of power to get approval for such a system from the Minnesota Public Utilities Commission (PUC).

**D. Types of SES.**

**1.** Roof or Building Mounted SES: accessory to the primary land use, designed to supply energy for the primary use.

**(a)** Roof or Building Mounted SES are permitted accessory uses in all districts in which buildings are permitted.

**(b)** No City land use or site permit is required.

**(c)** The owner or contractor shall receive a building or mechanical permit before installing a Roof or Building Mounted SES.

**2.** Ground Mounted SES: accessory to the primary land use, designed to supply energy for the primary use.

**(a)** Ground Mounted SES are permitted accessory uses in all districts in which buildings are permitted.

**(b)** Ground Mounted SES require a City land use or site permit and are subject to accessory use standards for the district in which it is located, including setback, height and impervious surface coverage limits.

**(c)** The City does not consider the collector surface of a Ground Mounted SES that is not a DNR designated Shoreland District as impervious surface. Any collector surface of a Ground Mounted SES foundation that is in a DNR designated Shoreland District and compacted soil or other component of the solar installation that rests on the ground is considered impervious surface.

**(d)** The height of Ground Mounted SES shall not exceed fifteen (15) feet.

**(e)** No Ground Mounted SES shall cover or encompass more than ten percent (10%) of the total property area or lot size.

**3.** Community SES: Roof or Building Mounted and Ground Mounted Community SES shall be accessory to the primary land use and designed to supply energy for off-site uses on the distribution grid, but not for export to the wholesale market or connection to the electric transmission grid. These systems shall be subject to the following conditions:

**(a)** Roof or Building Mounted and Ground Mounted Community SES are permitted accessory uses in all districts in which buildings are permitted.

**(b)** Prohibitions: the City prohibits Community SES within:

**(1)** Shoreland Districts as designated by the Department of Natural resources (DNR) and the Pine Island Zoning Map;

**(2)** Wetlands to the extent required by the Minnesota Wetland Conservation Act;

**(3)** The Floodplain Overlay District.

**(c)** An interconnection agreement must be completed with the electric utility in whose service territory the system is located.

**(d)** All structures must meet the setback, height and coverage limitations for the district in which the system is located.

**(e)** Ground Mounted SES must meet all required standards for structures in the district in which the system is located.

**(f)** Site Plan Required. The owner or operator shall submit to the City a detailed site plan for both existing and proposed conditions. These plans shall show the location of all areas where solar arrays would be placed, the existing and proposed structures, property lines, access points, fencing, landscaping, surface water drainage patterns, floodplains, wetlands, the ordinary high water mark for all water bodies, any other protected resources, topography, electric equipment and all other characteristics requested by the City.

**(g)** Power and Communication Lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. The City may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines.

**(h)** Decommissioning Plan. The City requires the owner or operator to submit a decommissioning plan for Community SES to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission the solar panels in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet all City requirements. The City also may require the owner or operator to post a bond, letter of credit or establish an escrow account to ensure property decommissioning.

**4.** Solar Farms. Solar Farms shall be Ground Mounted SES arrays that are the primary use on parcel on which it is located and are designed for providing energy to off-site uses or export to the wholesale market. Solar Farms, including those that are not permitted or regulated by the State of Minnesota Public Utilities Commission (PUC), shall be subject to the following conditions:

**(a)** Solar Farms shall be permitted as an interim use in the Agricultural (AG), Heavy Industrial District (I-1) and Light Industrial District (I-2) zoning districts, and shall be processed according to the standards of section 11.18 of this chapter.

**(b)** Shall be on properties of at least five (5) acres in size.

**(c)** Stormwater management and erosion and sediment control shall meet the requirements of the City and best management practices.

**(d)** Prohibitions: The City prohibits Solar Farms within:

**(1)** Shoreland districts as designated by the Department of Natural Resources (DNR) and the Pine Island Zoning Map;

**(2)** Wetlands to the extent required by the Minnesota Wetland Conservation Act;

**(3)** The Floodplain Overlay District.

**(e)** Foundations. The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels meets the accepted professional standards, given local soil and climate conditions.

**(f)** Other Standards and Codes. All Solar Farms shall meet all applicable local, state and federal regulatory standards, including the State of Minnesota Building Code, as amended; and the National Electric Code, as amended.

**(g)** Power and Communication Lines. All power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. The City may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines.

**(h)** Interconnection. The owner or operator of the Solar Farm must complete an interconnection agreement with the electric utility in whose service territory the system is located.

**(i)** Site Plan Required. The owner or operator of the Solar Farm must submit to the City a detailed site plan for both existing and proposed conditions. These plans shall show the location of all areas where solar arrays would be placed, the existing and proposed structures, property lines, access points to the site, fencing, landscaping, surface water drainage patterns, floodplains, wetlands, the ordinary high water mark for all water bodies, any other protected resources, topography, electric equipment and all other characteristics requested by the City.

**(j)** The owner or operator of the Solar Farm must submit to the City a detailed emergency shutdown plan as part of the review process.

**(k)** The City allows the installation of small operations, security and equipment buildings on the site of solar farms as permitted accessory uses to the Solar Farm.

**(l)** The owner or operator shall contain all unenclosed electrical conductors located above ground within structures that control access or they must be protected from entry by a six (6) foot tall fence. Razor wire is prohibited on all fences. All electrical connections to the utility system must meet or exceed the National Electrical Safety Code.

**(m)** Signage shall be posted at all entrance points to the property the Solar Farm is located on that includes at a minimum, the owner and operator's name, contact information and emergency phone numbers.

**(n)** The Solar Farm owner or operator shall provide access to the Pine Island Fire Department either in the form of a lock or key to all access points to the property the Solar Farm is located on.

**(o)** Solar Farms that have panels that would cover more than twenty (20) acres of land must meet the review and design standards of the Public Utilities Commission (PUC) for Solar Farms.

**(p)** Decommissioning Plan: The City requires the owner or operator to submit a decommissioning plan for Solar Farms to ensure that the owner or operator removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission the solar panels in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet all City requirements. The City also may require the owner or operator to post a bond, letter of credit or establish an escrow account to ensure property decommissioning.

**E. Additional Standards.** In addition to the standards allowed above, all SES shall meet the following standards:

**1.** The owners or operators of SES that are connected to the electric distribution or transmission system, either directly or through the existing service of the primary use on the site, shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Off-grid systems are exempt from this requirement.

**2**. Electric SES components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.

**3.** All SES shall meet the standards of the Minnesota and National Electric Code.

**4.** All Roof or Building Mounted SES shall meet the standards of the Minnesota Building Codes.

**5.** All SES using a reflector to enhance solar production shall minimize glare from the reflector that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, screening on the north side of the solar array, reducing use of the reflector system or other remedies that limit glare.

**6.** Roof or Building Mounted SES shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, SES other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building mounted mechanical devices for the zoning district in which the system is being installed.

**7.** Roof Mounted SES shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture Solar Energy.

**8.** Setbacks. All equipment and structures shall meet the setback and coverage limitations for the zoning district in which the system is located, except that Solar Farms shall be set back from all property lines at least one hundred (100) feet.

(Section 11.73, Amended Ord. No. 127, Second Series, 2-17-15)

**Subd. 4. Ground Source Heat Pump Systems.**

**A.** Accessory Use: Ground source heat pump systems shall be allowed as an accessory use in all zoning districts in accordance with the standards in this subdivision.

**B.** System Requirements:

**1.** All ground source heat pump systems shall be closed loop systems that circulate heat transfer fluids as allowed by this subdivision through pipes or coils buried beneath the land surface.

**2.** Heat transfer fluids shall be limited to nontoxic, food grade fluids such as potable water, aqueous solutions of propylene glycol not to exceed twenty percent (20%) by weight or aqueous solutions of potassium acetate not to exceed twenty percent (20%) by weight.

**C.** Location:

**1.** Ground source heat pump systems shall only be located in the rear yard as defined by this chapter.

**2.** All components of ground source heat pump systems shall be set back a minimum of five (5) feet from interior side lot lines and ten (10) feet from rear lot lines.

**3.** Ground source heat pump systems shall not encroach upon drainage and utility easements.

**D.** Screening: Ground source heat pump systems shall be screened in accordance with the requirements of Section 11.70, Subdivision 7 of this Chapter.

**E.** Certification: The ground source heat pump system shall be certified by Underwriters Laboratories, Inc., and comply to the requirements of the international building code.

**F.** Abandonment: Any ground source heat pump system which is inoperable for 12 successive months shall be deemed to be abandoned and shall be deemed a public nuisance. The owner shall remove the abandoned system at their expense after obtaining a demolition permit as follows:

**1.** The heat pump and any external or aboveground mechanical equipment shall be removed.

**2.** Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid, which is to be captured and disposed of in accordance with state and federal regulations.

**3.** The top of the pipe, coil or boring shall be uncovered and sealed.

**G.** Building Permit:

**1.** A building permit shall be obtained for any ground source heat pump system prior to installation.

**2.** Borings for ground source heat pump systems where the pipes or coils are installed vertically below the land shall also be subject to approval by the Minnesota Department of Health.

**SEC. 11.74 - 11.99 RESERVED FOR FUTURE EXPANSION.**

ZONING MAP

**SUB-ANALYSIS**
**Title**
**CHAPTER 12 SUBDIVISION REGULATIONS (PLATTING)**
(Repealed, Ord. No. 116, Second Series)
(Added, Ord. No. 116, Second Series)

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## SEC. 12.01 TITLE AND PURPOSE.

### Subd. 1. Title.

This chapter shall be known as the *SUBDIVISION ORDINANCE OF THE CITY OF PINE ISLAND*, and will be referred to herein as "this chapter".

### Subd. 2. Purpose.

In order to safeguard the best interests of the City and to assist the subdivider and/or owner in harmonizing his/her interests with those of the City at large, the following regulations are adopted so that the adherence to same will bring results beneficial to both parties. It is the purpose of this chapter to make certain regulations and requirements for the platting of land within the City pursuant to the authority contained in Minnesota Statutes Annotated, which regulations the City Council deems necessary to:

**A.** Encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction.

**B.** Provide for the health and safety of residents by requiring the necessary services such as properly designed streets and adequate sewage and water service.

**C.** Place the cost of improvements against those benefiting from their construction.

**D.** Secure the rights of the public with respect to public land and waters.

**E.** Improve land records by establishing procedures and standards for the use of surveys and plats.

**F.** Protect the environmentally sensitive areas in the City.

**G.** Preserve energy by allowing solar and earth-sheltered structures.

**SEC. 12.02 SCOPE AND AUTHORITY.**

The rules and regulations governing plats and subdivision of land contained herein shall apply within the City. Except in the case of resubdivision, this chapter shall not apply to any lot or lots forming a part of a subdivision recorded in the office of the County Recorder prior to March 20, 2012, nor is it intended by this chapter to repeal, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by, or in conflict with, this chapter, or with restrictive covenants running with the land. Where this chapter imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

The City of Pine Island has adopted a comprehensive plan for the future physical development and improvement of the City pursuant to Minnesota Statutes 462.351-432.3535, and finds it necessary to regulate the division of land for future development and use. The City finds that the public health, safety and general welfare require that the division of land into two or more parcels requires regulation to assure adequate space, light and air; to provide proper ingress and egress to property; to facilitate adequate provision for water, waste disposal, storm water drainage, fire protection, open space, schools, public uses and adequate streets and highways; and to assure uniform monumenting, legal descriptions and conveyance of subdivided land. The Minnesota Statutes authorize municipalities to so regulate the subdivision and platting of land pursuant to MSA 412.221 Subdivision 32; and 462.358.

## SEC. 12.03 GENERAL SUBDIVISION PROVSIONS.

### Subd. 1. Administration.

The Zoning Administrator, who is appointed by the City Council, shall administer this chapter.

### Subd. 2. Amendments.

The provisions of this chapter shall be amended by the City Council in accordance with the law, including the rules and regulations of any applicable state or federal agency.

### Subd. 3. Approvals Necessary for Acceptance and Recording of Subdivision and Plats.

Before any plat or subdivision of land shall be recorded or be of any validity, it shall be referred to the Planning Commission and approved by the City Council of Pine Island as having fulfilled the requirements of this chapter or subdivision. No plat or subdivision shall be entitled to be recorded in the County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and complies with the requirements of this chapter.

### Subd. 4. Separability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason found to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. This chapter is not intended to repeal, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or with restrictive covenants running with the land except those specifically repealed by or in conflict with this chapter. Where this chapter imposes a greater restriction upon land than is imposed or required by such existing provisions of the law, ordinances, code, statute, resolution or regulation, the regulations which are more restrictive or impose higher standards or requirements shall prevail.

### Subd. 5. Interpretation.

The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

A. The singular number includes the plural, and the plural the singular.

B. The present tense includes the past and the future tenses, and the future the present.

C. The word "shall" is mandatory while the word "may" is permissive.

D. The masculine gender includes the feminine and neuter.

E. All measured distances shall be expressed in feet and shall be to the nearest tenth of a foot.

F. For terminology not defined in this chapter, the City code, the Minnesota state building code or the Webster's dictionary shall be used to define such terms.

(04-04-12)

**Subd. 6. Building Permits.**

No building permits shall be considered for issuance by the City for the construction of any building, structure or improvement to the land or to any lot in a subdivision until the requirements of this chapter have been complied with.

**Subd. 7. Platting.**

Any subdivision creating lots or parcels after the adoption of these regulations shall be platted or approved as a minor subdivision and before any plat or subdivision may be recorded in the county recorder's office or be of any validity, it must comply with the requirements of this chapter and the Pine Island Zoning Ordinance.

**Subd. 8. Planned Unit Developments (PUD's).**

Upon receiving a report or recommendation from the Planning Commission, the City Council may grant a variance from the provisions of these regulations in the case of a Planned Unit Development, as defined in Chapter 11 Land Use Regulation (Zoning), provided that the City Council shall find that the proposed development is fully consistent with the purposes and intent of these regulations. This provision is intended to provide the necessary flexibility for new land planning and land development trends and techniques. Each application for a PUD shall be considered as an individual case and shall be reviewed in terms of its land use, circulation and traffic patterns, population and marketability, construction design, and timing. A PUD shall be granted only if:

A. Applicable provisions of the zoning ordinance related to PUDs are satisfied.

B. The PUD is designed to be in harmony with the natural features of the landscape. Steep slopes, wetlands, and natural features are to be preserved to the maximum extent possible.

C. Any PUD flexibility granted shall not violate the intent of the subdivision design standards.

**Subd. 9. Registered Land Surveys.**

**A.** Registered Land Surveys. All registered land surveys in the City shall be presented to the Planning Commission and City Council in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and the City Council shall first approve the arrangement, sizes and relationships of proposed tracts in such registered land surveys, and tracts to be conveyed for public purposes should be so indicated. Unless a recommendation and approval have been obtained from the Planning Commission and City Council respectively, in accordance with the standards set forth in this chapter, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts unless so approved.

**B.** Preparation. All registered land surveys shall be prepared in conformance with Minnesota statutes 508.47, subdivision 4, which is incorporated herein for reference.

**C.** Land for Public Purposes. Prior to approval of a registered land survey, the City Council reserves the right to require the conveyance of tracts of land for public purposes.

**Subd. 10 Conveyance by Metes and Bounds.**

**A.** Except for approved minor subdivisions, cemetery lots created according to Minnesota State Statutes Chapter 306, court orders or the adjustment of a lot line by the relocation of a common boundary, all subdivisions must be platted. Building permits will be withheld for buildings or tracts that have not been subdivided and conveyed by this method and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts, unless the parcel described in the conveyance was a separate parcel of record prior to March 20, 2012.

(04-04-12)

**SEC. 12.04 - 12.09 RESERVED FOR FUTURE EXPANSION.**

**SEC. 12.10 DEFINITIONS.**

The following terms, as used in this Chapter, shall have the meanings stated

**"Alley" -** A public or private right-of-way usually less than thirty (30) feet in width primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

**"Applicant" -** The owner, their legal agent or person having legal control, ownership and/or interest in land for which the provisions of this title are being considered or reviewed.

**"Block" -** A tract of land consisting of one or more lots, as identified on the plat, and bounded by plat boundaries, public right of ways, outlots, parks or bodies of water.

**"Bluff" -** A sloped topographic feature having all of the following characteristics:

**A.** Part or all of the feature is located in a shoreland area;

**B.** The slope rises at least twenty five feet (25') above the ordinary high water level of the waterbody or toe of the bluff. For purposes of this definition, "toe of the bluff" means the lower point of a horizontal ten foot (10') segment with an average slope exceeding eighteen percent (18%); and

**C.** The grade of the slope from the ordinary high water level of the water body or the toe of the bluff averages thirty percent (30%) or greater. For purposes of this definition, "top of the bluff" means the higher point of the highest horizontal ten foot (10') segment with an average slope exceeding eighteen percent (18%).

**"Bluff Impact Zone" -** A bluff and land located within twenty feet (20') of a bluff.

**"Boulevard" -** The portion of the street right-of-way between the curb line and the property line.

**"Buffer" -** The use of land, topography, difference in elevation, space, fences or landscape plantings to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights or other impacts.

**"Buffer Yard" -** A strip of land utilized to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights or other impacts.

**"Buildable Land" -** All land except wetlands, public waters, major drainageways, and land dedicated for county roads.

**"Building" -** Any structure used or intended for supporting or sheltering any use or occupancy.

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**"Certificate of Survey" -** A map of suitable scale prepared by a licensed Land Surveyor under the laws of the State of Minnesota with the minimum standards as set by the Minnesota Society of Professional Surveyors.

**"City Engineer" -** The licensed Professional Engineer under the laws of the State of Minnesota employed by the City or under contract with the City unless otherwise stated.

**"Civil Engineer"** - A licensed Professional Engineer (Civil) under the laws of the State of Minnesota.

**"Cluster Development" -** A subdivision development planned and constructed so as to group housing units into patterns while providing a unified network of open space and wooded areas, and meeting the overall density regulations of this chapter and Chapter 11 Land Use Regulation (Zoning).

**"Comprehensive Plan" -** The Pine Island Comprehensive Plan, is a plan prepared by the City including a compilation of policy statements, goals, objectives, standards and maps indicating the general locations recommended for the various functional classes of land use, transportation, parks, trails, open space, water and sanitary sewer and for the general physical development of the community

**"Contour Map" -** A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

**"Design Standards" -** The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as right-of-way, blocks, easements and lots.

**"Development" -** The act of building structures and installing site improvements.

**"Diameter" -** The measurement of a tree's trunk measured four and one-half feet (4.5') above the ground.

**"Drainage Course"** - A water course or indenture for the drainage of surface water.

**"Drainage Easement" -** An easement for the purpose of controlling, preserving, and providing for the flow or storage of water.

**"Drip Line" -** The farthest distance away from the trunk of a tree that rain or dew will fall directly to the ground from the leaves or branches of the tree or one foot (1') per one inch (1") of diameter, whichever is greater.

**"Easement" -** A grant by a property owner for the use of a strip of land and for the purpose of constructing and maintaining streets, trails, sidewalks, drives, utilities, including, but not limited to, wetlands, stormwater basins, sanitary sewers, water mains, electric lines, telephone lines, cable lines, storm sewer or storm drainageways and gas lines.

**"Final Plat" -** A drawing or map of a subdivision, meeting all of the requirements of the City and in such form as required by the County Recorder for the purpose of recording.

**"Individual Sewage Treatment System" -** A sewage treatment system or part thereof, serving a dwelling, building, structure or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. Individual sewage treatment system includes holding tanks.

**"Land Surveyor" -** A licensed Land Surveyor under the laws of the State of Minnesota.

**"Lot" -** A parcel or portion of land in a subdivision or other parcel of land occupied or to be occupied by a building and its accessory buildings, separated from other parcels or portions by description as on a plat or minor subdivision for the purpose of sale or lease or separate use thereof.

**A.** **"Lot Area" -** The area of a horizontal plane within the lot lines.

**B.** **"Lot, Base" -** A lot meeting all the specifications within its zoning district prior to being divided into unit lots.

**C.** **"Lot, Corner" -** A lot situated at the junction of and abutting on two (2) or more intersecting streets.

**D.** **"Lot, Double Frontage" -** Lots which have a front line abutting on one street and a back or rear line abutting on another street.

**E.** **"Lot Improvement" -** Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

**F.** **"Lot, Unit" -** Lots created from the subdivision of a base lot for the purpose of developing detached townhouse, two-family, attached townhouse or condominium residential, commercial or industrial developments or developments with more than one principal structure on a lot whereby the individual units have title to the portion of land that is generally underlying the structure.

**"Metes and Bounds Description" -** A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

**"Minimum Subdivision Design Standards" -** The guides, principles and specifications for the preparation of subdivision plats indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

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**"Minor Subdivisions" -** An approval process for simple land divisions which includes the following:

**A.** Division of One Lot into Two Lots.

**B.** Division of One Lot to Add a Parcel of Land to an Abutting Lot.

**C.** Combination of Two or More Contiguous Existing Lots of Record; Consolidations.

**D.** Subdivision of Two-Family or Townhouse Lots.

**"Owner" -** An individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

**"Outlot" -** A tract of land that is not part of a block and is identified by a capital letter within a plat, which is smaller than the minimum size permitted for lots and which is thereby declared unbuildable until combined through platting with additional land; or, a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or, a parcel of land which is included in a plat and which is designated for public or private open space, right of way, utilities or other similar purposes.

**"Parks and Playgrounds" -** Public land and open spaces in the City dedicated or reserved for recreation purposes.

**"Pedestrian Way" -** A public right of way or public or private easement across a block or within a block intended to provide access for pedestrians.

**"Percentage of Grade" -** On street centerline, means the distance vertically from the horizontal in feet and tenths of a foot for each one hundred (100) feet of horizontal distance.

**"Planning Commission" -** The Pine Island planning commission.

**"Plat" -** The drawing or map of a subdivision prepared for filing of record pursuant to MSA 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to MSA 462.358 and MSA 505.

**"Preliminary Plat" -** A drawing or map of a proposed subdivision meeting the requirements herein enumerated.

**"Protective Covenants" -** Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

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**"Public Improvement" -** Any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, off street parking area, lot improvement or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

**"Public Way" -** A thoroughfare or cul-de-sac which provides ingress and egress to the public.

**"Right-of-Way" -** The publicly owned land along a street or highway corridor a portion of which is covered by the street or highway pavement.

**"Setback" -** The minimum horizontal distance between a structure and lot line, ordinary high water mark, or right of way easement. Distances are to be measured from the most outwardly extended portion of the structure at ground level.

**"Significant Tree" -** A healthy tree measuring six inches (6") in diameter or greater.

**"Sketch Plan or Concept Plan" -** A generalized plan of a proposed subdivision indicating lot layouts, streets, park areas, and water and sewer systems presented to the City officials at the pre-application meeting.

**"Steep Slope" -** Where specific information is not available, steep slopes are lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty feet (50') or more, which are not defined as bluffs.

**"Street"** - A public right of way affording primary access by pedestrians or vehicles or both, to abutting properties, whether designated as a street, highway, arterial, parkway, road, avenue or boulevard.

**A.** **"Arterial Street" -** Those streets carrying larger volumes of traffic and serving as links between various subareas of the community. Arterial streets are intended to provide for collection and distribution of traffic between highways and collector streets; hence regulation of direct access to property is critical.

**B.** **"Collector Street" -** Those streets that carry traffic from local streets to the major system of arterials and highways. Collector streets primarily provide principal access to residential neighborhoods, including, to a lesser degree direct land access.

**C.** **"Cul-de-Sac" -** A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

**D.** **"Local Street" -** Those streets that are used primarily for access to abutting properties and for local traffic movement.

**E.** **"Marginal Access Streets** - Those local streets which are parallel and adjacent to arterials; and which provide access to abutting properties and protection from through traffic.

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**F.** **"Private Street" -** A street serving as vehicular access to one (1) or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

**G.** **"Street Width" -** For the purpose of this chapter, the shortest distance between the lines delineating the right-of-way.

**"Subdivider" -** Any individual, firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

**"Subdivision" -** The separation of a parcel, tract, or lot that is of record into two (2) or more parcels, tracts or lots, except those separations:

**A.** Allowed under Minor Subdivisions;

**B.** Creating cemetery lots according to Minnesota State Statute Chapter 306.

**C.** Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

**"Utility Easement"** - An easement conveyed, granted, or dedicated to the public for utility purposes.

**"Watercourse" -** A channel or depression through which water flows year round or intermittently, such as rivers, streams, or creeks.

**"Zoning Administrator" -** The person designated by the City to be the Zoning Administrator for the City of Pine Island.

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**SEC. 12.11 - 12.18 RESERVED FOR FUTURE EXPANSION.**

## SEC. 12.19 PROCEDURES FOR MINOR SUBDIVISIONS.

The following circumstances along with the listed requirements may be considered a minor subdivision:

### Subd. 1. Minor Subdivision Types.

The following classifications may be processed as a minor subdivision:

**A.** Division of One Lot into Two Lots. The subdivision of one (1) lot into two (2) lots, thereby creating no more than two (2) lots where both new lots and any existing buildings conform to the minimum requirements and setbacks of the Pine Island Zoning Ordinance, is subject to the Planning Commission and City Council review and approval. To qualify, the parcel of land shall not have been part of an minor subdivision within the last five (5) years.

**B.** Division of One Lot to Add a Parcel of Land to an Abutting Lot. The subdivision of a portion of one (1) lot, where the division is to permit the adding of a parcel of land to an abutting lot so that no additional lots are created and both new lots and any existing buildings conform to the minimum requirements and setbacks of the Pine Island Zoning Ordinance, is subject to the Planning Commission and City Council review and approval.

**C.** Combination of Two Contiguous Existing Lots of Record; Consolidations. The owner of two (2) or more contiguous existing platted lots of record, may consolidate said lots into one (1) parcel or record. As part of the consolidation no additional lots shall be created and said consolidation is subject to the Planning Commission and City Council review and approval.

**D.** Subdivision of Two-Family or Townhouse Lots. The subdivision of a base lot which is a part of a recorded plat or parcel of land on which has been constructed a two-family or townhouse dwelling, where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will conform to minimum requirements and setbacks of the Pine Island Zoning Ordinance and not cause any of the unit lots or the structure to be in violation of this chapter or the State Building Code, is subject to the Planning Commission and City Council review and approval.

### Subd. 2. Content and Data Requirements.

The following information shall be submitted, and requirements shall be satisfied, prior to approval of the minor subdivision. Upon specific request, the Zoning Administrator may exempt an applicant from the submission of data which is not considered relevant to the application.

**A.** Submittal of the required application and fee.

**B.** Submittal of a current certificate of survey, prepared and signed by a licensed Land Surveyor, depicting the following:

**1.** Graphic scale of drawing (engineering scale only, not less than 1 inch equals 50 feet).

**2.** North arrow.

**3.** Date of survey.

**4.** Existing legal description of the parcel of land to be subdivided.

**5.** Existing parcel boundaries shown with survey measurement data matching the existing legal description of the parcel of land to be subdivided.

**6.** Area in square feet and acres of the outside boundary of the parcel of land to be subdivided.

**7.** Easements of record (referenced in the current title commitment, current title opinion or certificate of title).

**8.** All encroachments along the outside boundary of the proposed minor subdivision.

**9.** Identify all gaps and overlaps of the proposed minor subdivision.

**10.** The outside boundary of the proposed minor subdivision must be clearly marked with survey monumentation.

**C.** Submittal of proof of ownership.

**1.** Current title commitment or current title opinion for abstract property and a certificate of title for registered property (torrens).

**D.** Submittal of the zoning classification of the property.

**E.** Additional requirements, data and supportive information detailing the proposed minor subdivision shall include the following:

**1.** Existing site improvements within the subject property and fifty feet (50') outside the boundaries of the proposed minor subdivision.

**2.** Basins, lakes, rivers, streams, creeks, delineated wetlands, and other waterways bordering on or running through the proposed minor subdivision. The ordinary high water elevation and the 100-year flood elevation shall be shown where applicable, if available from the City or the DNR.

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**3.** Location, right of way widths and names of public streets or other public ways, showing type, width and condition of improvements, if any, which pass through and/or are adjacent to the proposed minor subdivision.

**4.** Location, right of way widths and names of railroads, if any, which pass through and/or are adjacent to the proposed minor subdivision.

**5.** Identify registered lands (torrens) within the outside boundaries of the proposed minor subdivision.

**6.** The boundary shown with survey measurement data and legal description of the lots of the proposed minor subdivision.

**7.** Submittal of the boundary and legal description of any proposed easements on the property.

**a.** A drainage and utility easement at least ten feet (10') wide must be provided along all property lines, unless otherwise approved by the City Engineer. A drainage and utility easement may also be required over wetland, wetland buffers, stormwater basins, lakes, drainage channels and tributaries. Dedication of such easements shall be made by a separate instrument, other than the required certificate of survey, and shall be recorded at the office of the County Recorder.

**b.** Dedication of easements for public streets consistent with the City's Comprehensive Plan may also be required. Dedication of such easements shall be made by a separate instrument, other than the required certificate of survey and shall be recorded at the office of the County Recorder.

**F. Two-Family and Townhouse Minor Subdivisions.** The minor subdivision of a base lot containing two-family or townhouse dwelling units, to permit individual private ownership of a single dwelling within such a structure, shall be subject to the following requirements:

**1.** A property maintenance agreement shall be arranged by the applicant and submitted to the City attorney for review and approval. The agreement shall ensure the maintenance and upkeep of the structure and the lot to meet minimum City standards. The agreement is to be filed with the County recorder's office as a deed restriction against the title of each unit lot.

**2.** Separate public utility service shall be provided to each subdivided unit and shall be subject to review and approval of the City Engineer.

**Subd. 3 Processing.**

Pursuant to Minnesota Statutes 15.99, an application for minor subdivision approval shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant. Additional City requirements are as follows:

**A.** Filing of Request. Request for minor subdivision approval, as provided within this section, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. The request shall be considered as being officially submitted and complete when the applicant has complied with all specified information requirements. In cases where an application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within ten (10) days of the date of submission.

**B.** Certificate of Taxes Paid. Prior to approving an application for a minor subdivision, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the minor subdivision application relates.

**C.** Reviewing the Request. Upon receipt of said application, the Zoning Administrator shall forward the application to the Planning Commission and City Council for review and approval. The Planning Commission shall review the request at a regular scheduled meeting and report its findings and make a recommendation to the City Council.

**D.** Technical Reports. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in conducting an evaluation of the request.

**E.** Evaluation Criteria. City staff and Planning Commission shall evaluate the proposed minor subdivision plan based upon compliance with the City Comprehensive Plan, the Pine Island Zoning Ordinance, provisions of this chapter, and other applicable chapters of the City Code.

**F.** City Council Review. Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall make a final decision as to the approval or denial of the minor subdivision as it considers necessary to protect the public health, safety and welfare.

Subject to limitations of Minnesota Statutes 15.99, if, upon receiving said report and recommendations of the Planning Commission and City staff, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council may differ from that of the Planning Commission, the City Council may, before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

**G.** Approval. The approval of a minor subdivision application shall be determined by one of the following:

**1.** If forwarded by the Zoning Administrator to the Planning Commission and City Council for review and approval, the minor subdivision application shall require approval by a simple majority vote of the City Council.

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**2.** If reviewed and approved by the Zoning Administrator, the Zoning Administrator shall reach a decision on the request within sixty (60) days after the minor subdivision was officially submitted. In addition to other requirements outlined in this chapter, minor subdivisions will be required and shall be submitted to and approved prior to the issuance of any building permit.

**H.** Upon approval of the minor subdivision, the Zoning Administrator shall be authorized to provide notice of the approval to the applicant. The deed or certificate of survey shall be filed and recorded at the Office of the County Recorder within ninety (90) days of approval. The Zoning Administrator shall keep a record of applications and minor subdivision approvals.

## SEC. 12.20 PROCEDURES FOR PRELIMINARY AND FINAL PLATS

### Subd. 1 Plat Procedures.

The following procedures shall be followed in the administration of this Chapter and no real property within the jurisdiction of this Chapter shall be subdivided and offered for sale or a plat recorded until a preliminary plat and a final plat of the proposed subdivision have been reviewed by the Planning Commission and the City staff, and until the final plat has been approved by the City Council as set forth in the procedures provided herein. Planned Unit Development's (PUD's) shall be presented in the same manner as plats for the review of the Planning Commission and the approval of the City Council.

### Subd. 2 Pre-Application Meeting.

Prior to the preparation of a preliminary plat, the subdivider and/or owner shall meet with the Zoning Administrator, City Engineer, and other appropriate officials in order to be made fully aware of all applicable City Code provisions, regulations, and plans in the area to be subdivided. At this time or at subsequent informal meetings, the subdivider and/or owner shall submit a general sketch plan of the proposed subdivision and preliminary proposals for the provision of water supply and waste disposal to the Zoning Administrator prior to filing a preliminary plat. The sketch plan can be presented in simple form but must show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivisions and developments, and to the natural resources and topography of the site. The subdivider and/or owner is urged to avail themselves of the advice and assistance of City staff in order to save time and effort, and to facilitate the approval of the preliminary plat.

### Subd. 3 Sketch Plan.

Approval of the sketch plan shall not be considered binding in regard to subsequent plat review. The Zoning Administrator, notably in the case of multi-phased projects, shall have the authority to refer the sketch plan to the Planning Commission and/or City Council for review and comment. The sketch plan submission shall include, but not be limited to, the following:

**A.** Formal request for subdivision.

**B.** Ten (10) copies of the sketch plan at a scale not less than one inch equals one hundred feet (1" = 100').

**C.** An eight and one-half inch by eleven inch ($8^1/_2$" x 11") reduction of the sketch plan.

**D.** Escrow deposit to pay review costs of City staff and consultants.

**E.** In cases of multi-phased subdivisions, applicable preliminary plat submission information as regulated by section 12.21, subd. 1 of this chapter.

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**Subd. 4 Preliminary Plat.**

**A.** Filing: Ten (10) copies of the preliminary plat, including all information required under section 12.21 subd. 1 of this chapter and a list of property owners located within three hundred and fifty feet (350') of the subject property shall be submitted to the Zoning Administrator at least thirty (30) days prior to the Planning Commission meeting at which such plat is to be considered. The required filing fee(s) as established by City Council resolution shall be paid and any necessary applications for variances from the provisions of this chapter shall be submitted with the required fee. The plat shall be officially submitted when all the information requirements are complied with.

**B.** Review by Other Commissions or Jurisdictions: The Zoning Administrator shall refer copies of the preliminary plat to the Planning Commission, City staff and consultants, any other appropriate City officials, County Engineer if the plat abuts a county road, Mn/DOT if the plat abuts a state highway and other public jurisdictions for their review and comment, where appropriate and when required.

**C.** Planning Commission Action:

**1.** The Zoning Administrator upon receipt of the application shall set a public hearing for public review of the preliminary plat. The hearing shall be held after adequate time has been allowed for staff and advisory body review of the plat. Notice of the hearing shall consist of a legal property description and description of request and shall be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of the hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred and fifty feet (350') of the boundary of the property in question. Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within this chapter.

**2.** The Zoning Administrator shall instruct the appropriate staff to prepare technical reports where appropriate and provide general assistance in preparing a recommendation on the action.

**3.** Unless excused by the Planning Commission, the applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.

**4.** The Planning Commission shall conduct the hearing and recommend such actions or conditions relating to the request, as they deem necessary to carry out the intent and purpose of this chapter. Such recommendation shall be accompanied by the report and recommendation of the City staff.

**D.** City Council Action:

**1.** The City Council shall act upon the preliminary plat within one hundred twenty (120) days from the date of submission of a complete application, unless an extension of the review period has been provided by the applicant.

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**2.** Upon receiving the report and recommendation of the Planning Commission and City staff, the City Administrator shall place the report and recommendation on the agenda of the City Council. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

**3.** Upon receiving the report and recommendation of the Planning Commission and City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary, and may impose any condition it considers necessary to carry out the purpose and intent of this chapter.

**4.** If, upon receiving said report and recommendations of the Planning Commission and the City staff, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council may differ from that of the Planning commission, the City Council may, before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

**5.** If the preliminary plat is not approved by the City Council, the reasons for such action shall be recorded in the proceedings of the City Council. If the preliminary plat is approved, such approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this chapter to be indicated on the final plat. The City Council may require such revisions in the preliminary plat and final plat, as it deems necessary to carry out the purpose and intent of this chapter.

**6.** If the preliminary plat is approved by the City Council, the subdivider and/or owner must submit the final plat within one (1) year after the approval or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council.

**Subd. 5 Final Plat**

Pursuant to Minnesota statutes 462.358 subdivision 3b, an application for a final plat shall be approved or denied within sixty (60) days from the date of its official and complete submission unless a time waiver is granted by the applicant. Additional City requirements are as follows:

**A.** Review: After the preliminary plat has been approved, the final plat shall be submitted for review as set forth in the subsections which follow. The City may agree to review the preliminary and final plats simultaneously. Request for final plat approval, as provided within this chapter, shall be filed with the Zoning Administrator on an official application form. Unless modified by the Zoning Administrator, such application shall be accompanied by a fee as provided for by City Council resolution. Such application shall also be accompanied by detailed written and graphic materials fully explaining the proposed final plat. The request shall be considered as being officially submitted when all the information requirements are satisfied. In cases where an application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within ten (10) days of the date of submission.

**B.** Approval of the Planning Commission: Ten (10) copies of the final plat including all information required in section 12.21, subd. 2 of this chapter shall be submitted to the Zoning Administrator for distribution to the Planning Commission, City Council and appropriate City staff. The City staff shall examine the final plat and prepare a recommendation to the Planning Commission. Nature of approval, disapproval or any delay in decision of the final plat will be conveyed to the subdivider and/or owner within ten (10) days after the meeting of the Planning commission at which such plat was considered.

**C.** Approval of the City Council: After review of the final plat by the Planning Commission, such final plat, together with the recommendations of the Planning Commission and the City staff shall be submitted to the City Council for approval. If accepted, the final plat shall be approved by resolution, providing for the acceptance of all agreements for basic improvements, public dedication and other requirements as indicated by the City Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the City Council and reported to the person or persons applying for such approval.

**D.** Special Assessments: When any existing special assessments which have been levied against the property described shall be divided and allocated to the respective lots in the proposed plat, the City Administrator shall estimate the clerical cost of preparing a revised assessment roll, filing the same with the county auditor, and making such division and allocation, and upon approval by the City Council of such cost, the same shall be paid to the City Clerk before the final plat approval.

**E.** Recording Final Plat: If the final plat is approved by the City Council, the subdivider and/or owner shall record it with the county recorder within one hundred (100) days after said approval or approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council. The subdivider and/or owner shall, immediately upon recording, furnish the City Administrator with a print and reproducible tracing of the final plat showing evidence of the recording. No building permits shall be let for construction of any structure on any lot in said plat until the City has received evidence of the plat being recorded by the county.

**F.** Recording Final Plats of Multi-phased Plats: If a preliminary plat is final platted in stages, unless otherwise provided in the development contract, all stages must be final platted into lots and blocks, not outlots, within three (3) years after the preliminary plat has been approved by the City Council or the preliminary plat of all phases not so final platted within the three (3) year period shall be void.

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**Subd. 6 Effect of Subdivision Approval.**

For one year following preliminary plat approval or three (3) years following preliminary plat approval of a multi-phased plat or final plat approval, unless the subdivider and/or owner and the City agree otherwise, no amendment to a Comprehensive Plan or official control shall apply to or affect the use, development, density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the City may extend the period by agreement with the subdivider and/or owner and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider and/or owner will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving a multi-phased plat, the City may by resolution or agreement grant the rights referred to herein for such periods of time longer than three years which it determines to be reasonable and appropriate.

**Subd. 7 Premature Subdivisions.**

Any preliminary plat/final plat and/or development deemed premature pursuant to the criteria listed below shall be denied by the City Council.

**A.** Condition Establishing Premature Subdivisions. A subdivision may be deemed premature should any of the provisions that follow exist:

**1.** Lack of Adequate Drainage: A condition of inadequate drainage shall be deemed to exist if:

**a.** Surface or subsurface water retention and runoff are such that it constitutes a danger to the structural security of the proposed structures.

**b.** The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.

**c.** The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.

**d.** Factors to be considered in making these determinations may include: average rainfall for the area; the relation of the land to floodplains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.

**2.** Lack of Adequate Water Supply: A proposed subdivision shall be deemed to lack an adequate water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation of existing water supplies for surrounding areas.

**3.** Lack of Adequate Roads or Highways to Serve the Subdivision: A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:

**a.** Roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, and when, with due regard to the advice of the County and/or Mn/DOT, said roads are inadequate for the intended use.

**b.** The traffic volume generated by the proposed subdivision would create unreasonable highway congestion or unsafe conditions on highways existing at the time of the application or proposed for completion within the next two (2) years.

**4.** Lack of Adequate Waste Disposal Systems: A proposed subdivision shall be deemed to lack adequate waste disposal systems if in subdivisions for which sewer lines are proposed, there is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density after reasonable sewer capacity is reserved for schools, planned public facilities, and commercial and industrial development; or if in subdivisions where sewer lines are neither available nor proposed, there is inadequate on site sewer capacity potential to support the subdivision if developed to the maximum permissible density indicated in the Pine Island comprehensive plan, as may be amended.

**5.** Inconsistency with Comprehensive Plan: A proposed subdivision shall be deemed inconsistent with the City's Comprehensive Plan when the subdivision is inconsistent with the purposes, objectives and recommendations of the adopted Pine Island Comprehensive Plan, as may be amended.

**6.** City Service Capacity: A proposed subdivision shall be determined to lack necessary City service capacity when services such as recreational facilities, police and fire protection, and other City services, which must be provided at public expense, cannot reasonably be provided for within the next two (2) years.

**7.** Easements: That the design of the subdivision or the type of improvements will conflict with easements or record.

**B.** Burden of Establishing. The burden shall be upon the applicant to show that the proposed subdivision or development is not premature.

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## SEC. 12.21 DATA FOR PRELIMINARY AND FINAL PLATS.

### Subd. 1 Data for Preliminary Plat.

The subdivider and/or owner shall prepare and submit a preliminary plat, together with any necessary supplementary information, preliminary utility plan and preliminary grading plan. The plans shall contain the information set forth in the subsections that follow (Upon specific request, the City may exempt an applicant from the submission of data which is not considered relevant to the application.):

**A.** Proof of Ownership:

**1.** Current title commitment or current title opinion for abstract property and a certificate of title for registered property (torrens).

**2.** Written authorization from current owner, if current owner is not making application for platting.

**B.** Certificate of Survey: A current certificate of survey, prepared and signed by a licensed Land Surveyor, depicting the following:

**1.** Graphic scale of drawing (engineering scale only, not less than 1 inch equals 100 feet).

**2.** North arrow.

**3.** Date of survey.

**4.** Existing legal description of the parcel of land to be platted.

**5.** Existing parcel boundaries shown with survey measurement data matching the existing legal description of the parcel of land to be platted.

**6.** Area in square feet and acres of the outside boundary of the parcel of land to be platted.

**7.** Easements of record (referenced in the current title commitment, current title opinion or certificate of title).

**8.** All encroachments along the outside boundary of the parcel of land to be platted.

**9.** Identify all gaps and overlaps of the property being platted.

**10.** The outside boundary of the property being platted must be clearly marked with survey monumentation.

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**C.** Preliminary Plat:

**1.** General Requirements:

**a.** The current certificate of survey must be used as a base for the preparation of the preliminary plat.

**b.** Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing platted subdivisions within the County and must be verified with the County recorder.

**c.** Graphic scale of drawing (engineering scale only, not less than 1 inch equals 100 feet).

**d.** Date of preparation.

**e.** North arrow.

**f.** Location of boundary lines in relation to a known section, quarter section or quarter-quarter section lines comprising a legal description of the property.

**g.** Name and address of the property owner(s).

**h.** Name and address of the subdivider.

**i.** Name, address and signature of the licensed Land Surveyor or licensed Professional Engineer (Civil) who prepared the proposed plat.

**j.** Existing zoning classifications for lands within and abutting the proposed plat, including floodplain and shoreland boundaries.

**k.** Property lines of adjoining unsubdivided or subdivided land, within three hundred fifty feet (350'), including all contiguous land owned or controlled by the subdivider and/or owner.

**l.** In plats where public water and sewer are not available, the subdivider and/or owner shall file a report prepared by a certified soils evaluator or licensed Professional Engineer (Civil) on the feasibility of individual on site sewer and water systems on each lot, and shall include soils boring analysis and percolation tests to verify conclusions.

**m.** Existing site improvements inside the outside boundaries and fifty feet (50') outside the outside boundaries of the parcel of land to be platted.

**n.** Basins, lakes, rivers, streams, creeks, wetlands, and other waterways bordering on or running through the parcel of land and delineation of any or portions of any wetlands within the subject property to be platted. The ordinary high water elevation and the 100-year flood elevation shall be shown where applicable.

**o.** Location, right of way widths and names of public streets or other public ways, showing type, width and condition of improvements, if any, which pass through and/or are adjacent to the parcel of land being platted.

**p.** Location, right of way widths and names of railroads, if any, which pass through and/or are adjacent to the parcel of land being platted.

**q.** Identify registered lands (torrens) within the outside boundaries of the parcel of land being platted.

**2.** Proposed Design Features:

**a.** Layout of proposed streets showing the right of way widths, centerline gradients, typical street sections, and proposed names of streets in conformance with the county uniform street naming and addressing system. The name of any street heretofore used in the City or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used.

**b.** Locations and widths of proposed alleys and pedestrianways.

**c.** Location, dimensions and purpose of all easements.

**d.** Layout, numbers, lot areas and preliminary dimensions of lots and blocks.

**e.** Minimum front and side street building setback lines.

**f.** When lots are located on a curve, the width of the lot at the building setback line.

**g.** Areas, other than streets, alleys, pedestrianways, and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.

**3.** Supplementary Information:

**a.** Any or all of the supplementary information requirements set forth in this subsection shall be submitted when deemed necessary by the City staff, consultants, advisory bodies and/or City Council.

**b.** Proposed protective covenants.

**c.** An accurate soil survey and/or soil borings of the subdivision prepared by a registered soils engineer.

**d.** A tree inventory prepared by a licensed or registered forester or landscape architect identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density and spacing.

**e.** Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards and congestion of population.

**f.** If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any right in the applicant.

**g.** The subdivider and/or owner shall be required to submit a sketch plan of adjacent properties so as to show the possible relationships between the proposed subdivision and future subdivisions. All subdivisions shall be required to relate well with existing or potential adjacent subdivisions.

**h.** Where structures are to be placed on large or excessively deep lots that are subject to potential replat, the preliminary plat shall indicate a logical way in which the lots could possibly be resubdivided in the future.

**i.** When the City has agreed to install improvements in a development, the subdivider and/or owner will be required to furnish a financial security satisfactory to the City.

**j.** A comprehensive screening plan which identifies all proposed buffering and screening in both plan and sectional view.

**k.** Where irregular shaped lots have been proposed, house plans shall be submitted which demonstrate such lots to be buildable and the resulting structure compatible in size and character to the surrounding area.

**l.** Such other information as may be required.

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**m.** The preliminary plat submittal shall include the following information:

**(1)** Gross acres.

**(2)** Net developable acres.

**(3)** Comprehensive plan land use designation.

**(4)** Existing and/or proposed zoning.

**(5)** Gross unit density.

**(6)** Net unit density.

**(7)** Acres of right of way.

**(8)** Acres of wetland.

**(9)** Acreage of each outlot.

**n.** Site dimension plan.

**D.** Preliminary Grading Plan: The subdivider and/or owner shall submit a preliminary grading, drainage and erosion control plan utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a licensed Professional Engineer (Civil), depicting the following information:

**1.** North arrow and date of preparation.

**2.** Graphic scale (engineering scale only, not less than 1 inch (1") equals 50 feet (50')).

**3.** Lot and block numbers, house pad location, home style and proposed building pad elevations at garage slab and lowest floor for each lot.

**4.** Drainage plan, with a narrative, including the configuration of drainage areas and calculations. The locations of proposed infiltration basins must include soil borings and infiltration tests.

**5.** Location of all natural features on the tract. Natural features are considered to include, but are not limited to, the following: tree lines, wetlands, ponds, lakes, streams, drainage channels, bluffs, steep slopes, etc.

**6.** Location of all existing storm sewer facilities, including pipes, manholes, catch basins, stormwater basins, swales, and drainage channels within one hundred fifty feet (150') of the tract. Existing pipe grades, rim and invert elevations, and normal and high water elevations must be included.

**7.** If plat is located within or adjacent to a 100-year floodplain, flood elevations and locations must be clearly shown on the plan.

**8.** Spot elevations at drainage breakpoints and directional arrows indicating site, swale and lot drainage.

**9.** Locations, grades, rim and invert elevations of all storm sewer facilities, including stormwater basins, proposed to serve the tract.

**10.** Locations and elevations of all street high and low points.

**11.** Street grades shown, with a maximum permissible grade of ten percent (10%) and a minimum of five-tenths percent (0.5%).

**12.** Phasing of grading.

**13.** The location of all oversize nontypical easements.

**14.** A stormwater pollution prevention plan (SWPPP) including all soil erosion and sediment control measures to be incorporated during and after construction must be shown. Locations and standard detail plates for each measure must be included on the plan.

**15.** All revegetation measures proposed for the tract, including seed and mulch types and application rates must be included on the plan.

**16.** Existing contours at two foot (2') intervals shown as dashed lines (may be prepared by a Minnesota licensed surveyor). Existing contours shall extend one hundred fifty feet (150') outside of the tract.

**17.** Proposed grade elevations at two foot (2') intervals shown as solid lines.

**18.** Appropriate wetland permits in conformance with the wetland conservation act and buffer requirements.

**19.** All modular block retaining walls to be constructed as part of the subdivision grading plan must meet MN/DOT requirements. A licensed Professional Engineer (Civil) must design any retaining wall that has a combined height greater than four feet (4'). The building official must approve the retaining wall plans and each retaining wall is subject to issuance of a separate building permit.

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**E.** Preliminary Utility Plan: Preliminary utility plan, prepared and signed by a licensed Professional Engineer (Civil), depicting the following information:

**1.** Easements: Location, dimension and purpose of all easements.

**2.** Underground Facilities: Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of one hundred fifty feet (150') beyond the tract. Such data as grades, invert elevations, and location of catch basins, manholes and hydrants shall also be shown.

**3.** Water Supply: Water mains shall be provided to serve the subdivision by extension of an existing community system wherever feasible. Service connections shall be stubbed into the property line and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the design standards as approved by the City Engineer. In areas where public water supply is not available, individual wells shall be provided on each lot, properly placed in relationship to the individual sewage disposal facilities on the same and adjoining lots. Well plans must comply with the state well code, as may be amended, and be submitted for the approval of the City Engineer.

**4.** Sewage Disposal, Public: Sanitary sewer laterals and service connections shall be installed in accordance with the design standards of the City as approved by the City Engineer. The use of sanitary sewer ejector pumps for service to individual lots shall not be allowed, unless approved prior to installation by the City Engineer as a private utility fixture.

**5.** Sewage Disposal, Private: All individual sewage treatment systems shall be installed in accordance with all applicable state, county, and City requirements.

**6.** Sanitary Sewer Facilities: Locations, grades, rim and invert elevations, and sizes of all proposed sanitary sewer facilities to serve the tract.

**7.** Hydrants and Valves: Location of all proposed hydrants and valves for the proposed water mains.

**8.** Public Utilities: Public utilities must be extended to plat boundaries unless otherwise approved by the City Engineer.

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**Subd. 2 Data for Final Plat.**

The subdivider and/or owner shall submit a final plat, final grading, development, and erosion control plan, and final utility plan, together with any necessary supplementary information. The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota State statute 505 and the County surveyor's plat review regulations, and such final plat submittal shall contain the following information:

**A.** Name of the subdivision, which shall not duplicate or too closely approximate the name of any existing platted subdivisions within the County and proposed names must be verified with the County recorder.

**B.** Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error closure of any portion of a final plat shall the mathematical closure of tolerance of the plat boundary, blocks, lots and outlots shall not exceed 2/100 of a foot.

**C.** The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments.

**D.** Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.

**E.** Lots shall be numbered correctly and outlots shall be labeled alphabetically. Blocks are to be numbered, with numbers shown clearly in the center of the block.

**F.** The exact locations, widths and names of all streets to be dedicated.

**G.** Location and width of all easements to be dedicated.

**H.** Name of licensed Land Surveyor making the plat.

**I.** Scale of the plat shall be 10, 20, 30, 40, 50, 60 or 100 scale with the scale shown graphically on a bar scale and north arrow and north arrow along with basis of bearing notation Assumed, County Coordinate System, etc.

**J.** Statement dedicating all easements as follows:

*"Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "drainage and utility easements."*

**K.** Statement dedicating all streets, alleys and other public areas not previously dedicated as follows:

*"Streets, alleys, and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated."*

**L.** The final grading, development and erosion control plan must be prepared in accordance with the current City specifications.

**M.** A title report prepared by a title company indicating owners and encumbrances on the property and a statement as to which parts of the property are registered (torrens).

**N.** Construction cost estimates for all required basic improvements.

**O.** The following information shall be provided with the final plat:

**1.** Gross acres.

**2.** Net developable acres.

**3.** Comprehensive plan land use designation.

**4.** Existing and/or proposed zoning.

**5.** Gross unit density.

**6.** Net unit density.

**7.** Acres of right of way.

**8.** Acres of wetland.

**9.** Acreage of each outlot.

**P.** Certification by a licensed Land Surveyor in the form required by Minnesota statutes section 505.03, as amended.

**Q.** Execution of all owners of any interest in the land, any holders of a mortgage thereon, of the certificates required by Minnesota statutes section 505.03, as amended, and which certificate shall include a dedication of the utility easements and other public areas in such form as approved by the City Council.

**R.** Space for certificates of approval and review to be filled in by the signatures of the chair of the City Planning Commission and the Mayor and City Administrator. The form of certificate by the Planning Commission is as follows:

*Reviewed by the Planning Commission of the City of Pine Island.*

*This day of_____, 20___.*

*Signed:*
*Chair*

*Attest:*
*Secretary*

The form of approval of the City Council is as follows:

*This day of_____, 20___.*

*Signed:*
*Mayor*

*Attest:*
*City Administrator*

**Subd. 3 Engineering Standards for Final Grading, Development and Erosion Control Plans.**

The final grading, development and erosion control plan shall contain the following information and comply with the following standards:

**A.** Certificate: The current certificate of survey must be used as a base for the preparation of the final grading, development and erosion control plan.

**B.** Arrow: North arrow and date of preparation.

**C.** Scale: Graphic scale of drawing (engineering scale only, not less than 1 inch equals 50 feet).

**D.** Symbol Key: Key with all line types, symbols, shading and cross hatching denoted.

**E.** Illustration Key: Illustration key showing symbols for all information pertaining to lot and house design, including grades, easements, lot and block, setbacks, etc.

**F.** Bench Mark: The bench mark provided must be based upon the NAVD 88. Methods of establishing a new benchmark must be approved by the City Engineer and provided with the initial submittal of the grading plan.

**G.** Lines: Subject property's boundary lines, lot lines and right of way lines.

**H.** Adjacent Area Information: All adjacent plats, parcels, rights of way, section lines and existing topography extended a minimum of one hundred fifty feet (150') beyond the subject parcel in all directions.

**I.** Topography: Topography in two foot (2') contour intervals with existing contours shown as dashed lines and proposed contours shown as solid lines. All existing and proposed contours labeled at each edge of the plan and at appropriate locations within the plan.

**J.** Natural Features: Locations of all existing natural features must be clearly shown. Natural features are considered to include, but are not limited to, the following: tree lines, wetlands, ponds, lakes, streams, drainage channels, bluffs, steep slopes, etc.

**K.** Storm Sewers: Location of existing storm sewer facilities within one hundred fifty feet (150') of the subject parcel.

**L.** Flood Elevations: If the property is within or adjacent to a 100-year floodplain, flood elevations and locations must be clearly shown on the plan.

**M.** Total Area: Total area of plat, all lots, outlots and stormwater basins denoted on plan (tabulation permitted).

**N.** Direction Arrows: Direction arrows indicating sites, swale and lot drainage patterns. Spot elevations must be provided at drainage breakpoints.

**O.** Slope: Maximum three to one (3:1) slopes.

**P.** Numbers: Lot and block numbers.

**Q.** Lot Corners: Proposed lot corner elevations.

**R.** Names: Street names.

**S.** Emergency Overflow Swales: Emergency overflow swales located, labeled and spot elevations. Rear or side lot line swales minimum one percent (1.0%) grade sandy soils, and one and five-tenths percent (1.5%) grade clay soils.

**T.** Stormwater Basins, Swales, Etc.: All stormwater basins, swales and channels must be constructed on public easements or land owned by the City.

**U.** Grades: Percent grades indicated along major drainage swales (more than 12 lots).

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**V.** Proposed Elevations: Proposed elevations at garage floor and lowest floor elevation. Proposed finished ground elevations around home for final grading. The top of the foundation and garage floor of all structures shall be a minimum of eighteen inches (18") or three percent (3%) above the grade of the crown (center) of the street.

**W.** Style of Home: Style of home indicated for each lot; e.g., rambler, split level, walkout, full basement, etc.

**X.** High and Low Points: Finished spot elevations at all high and low points.

**Y.** Cul-de-sacs: Locations of all temporary cul-de-sacs.

**Z.** Street Barricades: Locations of permanent street barricades.

**AA.** Storm Sewer Facilities: Locations of all proposed storm sewer facilities.

**BB.** Drainage: Maximum of four hundred (400) linear feet of drainage from rear yard areas permitted. Rear yard catch basins must be installed at the four hundred foot (400') mark, or as determined by the City Engineer.

**CC.** Drain Tile: Location of proposed drain tile including cleanout locations and inverts of services to each lot (5 feet from the lot line on the downstream side of the lot). Invert information is required only if depth of tile is other than forty-eight inches (48") City standard depth.

**DD.** Utility Easements: Location of all oversized drainage and utility easements.

**EE.** Stormwater Basins: All existing and proposed stormwater basins must have outlet elevation (oe), 100-year high water level (HWL) shown and total volume (acre-feet) of stormwater retention indicated above the outlet elevation.

**FF.** Inlets and Outlets: Invert elevation of inlets and outlets into stormwater basins.

**GG.** Tree Preservation: Location of tree preservation fencing, and limits of clearing and grading clearly shown on plans.

**HH.** Grading: Designation of lots to be mass graded and custom graded.

**II.** Erosion Control: Location of all structural erosion control measures including, but not limited to, the following: temporary gravel construction entrances, temporary and permanent sediment basins, silt fence, staked bales, storm sewer inlet filters, rock filter dikes, storm sewer outlet protection, erosion control mats, fiber blankets and nettings.

**JJ.** Soil Stockpiling: Locations of soil stockpile areas with temporary stabilization measures indicated.

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**KK.** Seeding: Seeding specifications, including:

**1.** Type of seeding (permanent, temporary, and dormant);

**2.** Type of seed and application rate;

**3.** Fertilizer type and application rate;

**4.** Mulch type, application rate, and method of anchoring;

**5.** Specifications for the installation and maintenance of erosion control mats, blankets or netting;

**6.** Note requiring seeding to be completed within forty eight (48) hours of rough grading with revegetation to occur within forty eight (48) hours of fine grading.

**LL.** Lot Benching: Standard lot benching detail must be provided.

**MM.** Detail Plates: Standard detail plates and maintenance information for each of the above measures used must also be included.

**NN.** Grading Plan: Requirements for certified grading plan:

**1.** A certified plan must be submitted within thirty (30) days of grading completion.

**2.** The "as constructed" grading plan must include certification by a licensed Land Surveyor or licensed Professional Engineer (Civil) that all stormwater basins, swales and drainageways have been constructed on public easements or land owned by the City.

**3.** The "as constructed" grading plan shall include field verified elevations of the following:

**a.** Cross sections of stormwater basins.

**b.** Location and elevations of all swales, drainageways and emergency overflows.

**c.** All lot corners and center of house pads at the front and rear.

**d.** Tops of castings of rear yard catch basins.

**e.** All slopes steeper than four to one (4:1).

**f.** The location and elevation of any retaining walls.

**g.** The location, restored elevation, and bottom elevation of any borrow areas, temporary sediment basin/trap, or temporary drainage ditch/culvert that were located within a proposed lot or outlot building pad, or that had a bottom elevation more than three feet (3') below final grade.

**h.** All permanent drain tile installed.

**i.** Elevations of all flared ends and outlet structures for sediment basins and stormwater basins.

**j.** The location and elevation of all landscape berms.

**4.** After construction, one set of mylar drawings is to be prepared and submitted to the City.

**5.** Certified grading plans are to be submitted to the City on an electronic file. The electronic file must be in AutoCAD.DWG or *.DXF format and consistent with the City's standard specification manual for minimum layering requirements.

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**SEC. 12.22 - 12.29 RESERVED FOR FUTURE EXPANSION.**

**SEC. 12.30 DESIGN STANDARDS.**

All subdivision plats and minor subdivisions shall comply with the following design standards, if applicable.

**Subd. 1 Streets and Alleys**

**A. General Street Design.**

**1.** The design of all streets shall be considered in relation to public safety, existing and planned streets, efficient circulation of traffic, topographical conditions, run-off of storm water, proposed use of the land to be served by such streets, and the Comprehensive Plan of the City.

**2.** Street Plans for Future Subdivisions: Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider and/or owner or the plat adjoins unsubdivided land that can be subdivided in the future, a sketch plan of a proposed future street system and lot layout for the unsubdivided portion and/or adjoining land shall be prepared and submitted by the subdivider and/or owner showing the appropriate arrangement of the streets continuation into unsubdivided portions and adjoining land. Such streets shall be carried to the boundaries of the unsubdivided land.

**3.** Provisions for Resubdivision of Large Lots and Parcels: When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.

**4.** Local Streets. Local streets should be so planned as to discourage their use by nonlocal traffic.

**5.** Streets, Continuous: Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of arterial and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of stormwater, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served. The street arrangements shall not be such as to cause hardship to owners of adjoining property in subdividing their own land and providing convenient access to it.

**B.** Street Right of Way Widths and Grades. Unless approved by the City Engineer to match existing adjacent right of way, street right of way widths shall conform to the following standards. Except when, upon the recommendation of the City Engineer, the topography warrants a greater maximum, the grades in all streets, arterials, collector streets, local streets, parkways and alleys in any subdivision shall conform to the following standards. In addition, there shall be a minimum grade of not less than five-tenths percent (0.5%) unless approved by the City Engineer because of existing conditions.

| **Functional Classification** | **Minimum Right of Way** | **Maximum Grade** | **Minimum Grade** |
|---|---|---|---|
| Regional Arterial | 150 feet | 5% | 0.5% |
| Local Arterial | 100 feet | 5% | 0.5% |
| Regional Collector | 100 feet | 8% | 0.5% |
| Local Collector | 80 feet | 8% | 0.5% |
| Local Residential | 60 feet | 10% | 0.5% |
| Local Commercial/Industrial | 80 feet | 10% | 0.5% |
| Parkway Designated Roadway | 120 feet | 5% | 0.5% |
| Alley | 30 feet | 10% | 0.5% |

**C. Street Intersections.** Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of streets shall be eighty degrees ($80^o$). Street intersection jogs with an offset of less than one hundred feet (100') shall be avoided. Intersections having more than four corners shall be prohibited. Adequate land for future intersection and interchange construction needs shall be dedicated to the City.

**D. Cul-De-Sacs/Dead End Streets.**

**1.** Permanent dead end streets without cul-de-sac turnarounds are prohibited.

**2.** Permanent cul-de-sacs shall be allowed only where one or more of the following criteria have been met:

**a.** Area topography or other physical site conditions warrant a cul-de-sac.

**b.** A through street is not physically feasible or desirable due to environmental or access spacing considerations.

**3.** The length of a permanent cul-de-sac street shall not be less than one hundred fifty feet (150') nor longer than six hundred feet (600') and shall include a turnaround which shall be provided at the closed end, with a right of way radius not less than sixty feet (60'). The length of the cul-de-sac shall be measured from the intersection of the centerlines of the cul-de-sac and the intersecting street to the center point of the cul-de-sac right of way turnaround. Pedestrianways in the form of an outlot and/or easement may be required through the block adjacent to cul-de-sac turnaround in order to provide pedestrian access to the closed end of the cul-de-sac. The outlot and/or easement shall be owned by the City or in favor of the City.

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**4.** In areas determined by the City to be environmentally sensitive due to topography, forestation and/or wetlands, deviations to the design standards outlined in section 12.30 subd. 1 letter D3 of this chapter may be allowed, provided that:

**a.** Such deviations are limited to the following:

**(1)** Right of way dedication, excluding turnaround area, may be reduced from sixty feet (60') to no less than fifty feet (50').

**(2)** Street widths measured from back of curb to back of curb may be reduced from thirty two feet (32') to no less than twenty eight feet (28').

**b.** The following standards are met:

**(1)** All lots shall meet or exceed the minimum standards for the applicable zoning district.

**(2)** The required drainage and utility easement in the front yard of lots shall be not less than fifteen feet (15').

**(3)** All custom graded lots shall have a custom grading plan and preapproved site/building plan prior to the issuance of building permits.

**(4)** The cul-de-sac length shall not exceed six hundred feet (600').

**(5)** Any reduction in front yard setbacks shall be processed according to provisions of the zoning ordinance.

**E. Temporary Cul-De-Sacs.**

**1.** In those instances where a street is terminated pending future extension in conjunction with future subdivision and there is more than two hundred feet (200') or two (2) dwelling units accessed between the dead end and the nearest intersection, a temporary turnaround shall be provided at the closed end in conformance with cul-de-sac requirements.

**2.** This temporary cul-de-sac must be placed inside a temporary roadway easement if it is located outside street right of way. The temporary easement and turnaround shall be located within an outlot or an adjacent undeveloped land.

**3.** The temporary cul-de-sac shall be paved with bituminous within one (1) year of construction.

**4.** Security shall be required for the turnaround removal and restoration.

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**F. Subdivisions Abutting Major Rights of Way:** Wherever the proposed subdivision contains or is adjacent to the right of way of a state highway, regional arterial or local arterial, provisions may be made for a marginal access street approximately parallel and adjacent to the boundary of such right of way; provided, that due consideration is given to proper circulation design, or for a street at a distance suitable for the appropriate use of land between such street and right of way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, or for lot depths.

**G. Half Streets**. Dedication of half streets shall not be considered for approval except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations or where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided.

**H. Private Streets**. Private streets shall be prohibited unless otherwise approved as part of a planned unit development in which case all street designs and standards shall be approved by the City Engineer.

**I. Curb Radius.** The minimum curb radii for arterials, collector streets, local streets, parkways, alleys and driveways shall be as follows:

| | |
|---|---|
| Alleys and Driveways | 5 feet |
| Arterial and Collector Streets | 25 feet |
| Local Streets | 15 feet |
| Parkways | 15 feet |

**J. Reverse Curves.** Minimum design standards for collector and arterial streets shall comply with Minnesota state aid design standards.

**K. Reserve Strips.** Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the City Council.

**L. Tangents**. A tangent of at least one hundred feet (100') shall be introduced between reverse curves on collector streets and fifty feet (50') on lesser streets.

**M. Deflections**. When connecting street lines deflect from each other at one point by more than ten degrees ($10^{o}$) they shall be connected by a curve with a radius adequate to ensure a sight distance of no less than five hundred feet (500') for arterials, three hundred feet (300') for collectors, and one hundred feet (100') for all other streets.

**N. Street Sections.** The street section shall comply with design standards as set forth in the City of Pine Island Roadway Design Guidelines as may be amended. All street designs are subject to the review and approval of the City Engineer.

**O. Seeding or Sodding.** Any areas disturbed within the street right of way, at the time of construction, shall be restored with a minimum of six inches (6") of topsoil and shall be seeded or sodded as directed by the City Engineer.

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**P. Service Access, Alleys.** Service access shall be provided in commercial and industrial districts for off street loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts, unless approved as part of a Planned Unit Development and is privately maintained as part of a homeowners association. Alleys, where provided, shall not be less than thirty feet (30') wide. Dead end alleys shall be avoided wherever possible, but if unavoidable, such dead end alleys may be approved if adequate turnaround facilities are provided at the closed end.

**Q. Sidewalks and Multipurpose Trailways.**

**1.** Concrete sidewalks shall be installed along both sides of all local residential and local commercial/industrial streets (not including cul-de-sacs) as designated by the City's Comprehensive Plan. All sidewalks shall have a minimum width of five feet (5'). At the discretion of the City Council sidewalks may be installed along only one side of a local residential and local commercial/industrial street in areas determined by the City to be environmentally sensitive due to topography, forestation and/or wetlands.

**2.** Concrete sidewalks shall be installed along one side and multipurpose trailways shall be installed along the other side of all arterial, collector and parkway streets as designated by the City's Comprehensive Plan. All sidewalks shall have a minimum width of five feet (5') and all multipurpose trailways shall have a minimum width of ten feet (10') and be constructed of bituminous materials.

**3.** Concrete sidewalks and multipurpose bituminous trailways shall be accessible by handicapped persons in accordance with Minnesota statutes section 471.464.

**4.** The subdivider and/or owner shall be responsible for the payment of one hundred percent (100%) of all the costs of sidewalks and multipurpose bituminous trailways, including the cost of grading and restoration, materials and all installation costs.

**5.** The subdivider and/or owner shall install all required sidewalks and multipurpose trailways at the time the required street improvements are installed or provide the City with a cash escrow or irrevocable letter of credit in amount of one hundred and twenty-five percent (125%) of the estimated cost of installation, as determined by the City Engineer, to ensure completion of the required sidewalks and multipurpose trailways. All required sidewalks and multipurpose trailways shall be completed within three (3) years of final plat approval or prior to the issuance of a certificate of occupancy for an individual lot, whichever occurs first. If the required sidewalks and multipurpose trailways have not been completed within three (3) years of the final plat approval, the City may use the cash escrow or irrevocable letter of credit to complete any remaining sidewalks and multipurpose trailways. If the required sidewalks and multipurpose trailways are to be intalled at the time the required street improvements are installed, the subdivider and/or owner shall provide the City with an appropriate financial security acceptable to the City, prior to the issuance of building permits within the subdivision, to ensure the installation of the required sidewalks and multipurpose trailways is completed.

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**R. Street Names.** Street names shall not duplicate the names of other streets.

**S. Compliance with the County Transportation Plans.** All subdivisions incorporating streets which are identified in the county transportation plans, as amended, shall comply with the minimum right of way, surfaced width, and design standards as outlined in said plan, and must be reviewed and approved by the County.

**T. Functional Classification**. Streets within the City shall be dedicated in accordance with their functional classification as designated within the City's adopted comprehensive plan as may be amended; or as recommended by the City Engineer and approved by the City Council.

**Subd. 2 Blocks.**

**A**. **Block Length.** In general, intersecting streets, determining block lengths, shall be provided at such intervals so as to serve cross traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions should not exceed one thousand two hundred feet (1,200') nor be less than four hundred feet (400') in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than eight hundred feet (800'), pedestrianways and/or easements through the block may be required near the center of the block.

**B. Block Width**. The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off street parking and deliveries.

**Subd. 3 Lots.**

**A. Area.** The minimum lot area, width and depth shall not be less than that established by the City Zoning Ordinance in effect at the time of adoption of the final plat.

**B. Corner Lots.** Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the zoning ordinance.

**C. Side Lot Lines.** Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.

**D. Frontage.** Every lot must have the minimum frontage on a City approved street other than an alley, as required in the City zoning ordinance.

**E. Setback Lines**. Setback or building lines shall be shown on all lots and shall not be less than the setback required by the City zoning ordinance.

**F. Features.** In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

**G. Lot Remnants**. All remnants of lots below minimum size left over after subdividing of a larger tract must either be platted as an outlot or be added to adjacent lots, rather than allowed to remain as unusable parcels.

**H. Political Boundaries.** No singular plat shall extend over a political boundary without documented notification to affected units of government.

**I. Frontage on Two Streets.** Double frontage, or lots with frontage on two (2) parallel streets shall not be permitted except: where lots back on arterial or regional collector streets or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall adhere to the requirements of section 11.70 subd. 7 letter D of the City Code.

**J. Access.** Unless approved by the City Engineer, the grade elevation of any driveway shall not exceed:

**1.** Ten percent (10%) for single, two-family and townhouse dwellings and all underground parking.

**2.** Five percent (5%) for all other uses.

**K. Buffer Side Yards.** In the case of single-family residential lots with side yards that abut major collector or arterial streets, the buffer yard requirements of section 11.70 subd. 7 letter D of the City Code shall apply.

**L. Irregular Shaped Lots.** On single-family residential lots determined to be irregular in shape (e.g., triangular), the developer shall demonstrate to the City an ability to properly place principal buildings and accessory structures upon the site which are compatible in size and character to the surrounding area.

**M. Two-Family and Townhouse Lot Subdivisions.** The subdivision of a base lot containing two-family or townhouse dwelling units to permit individual private ownership of a single dwelling within such a structure shall be subject to the following requirements:

**1.** A property maintenance agreement shall be arranged by the applicant and submitted to the City attorney for review and approval. The agreement shall ensure the maintenance and upkeep of the structure and the lot to meet minimum City standards. The agreement is to be filed with the County recorder's office as a deed restriction against the title of each unit lot.

**2.** Separate public utility service shall be provided to each subdivided unit and shall be subject to review and approval of the City Engineer.

**N. Grading Plan.** The grading plan for all single-family residential subdivisions shall provide for an area with a slope not greater than ten percent (10%) extending not less than a depth of twenty feet (20') from the rear line of the building pad the entire width of the building pad, except as approved by the City Engineer.

**O. Drainage**. Lots shall be graded so as to provide drainage away from building locations.

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**Subd. 4 Drainage and Utility Easements**

**A. Width and Location.** An easement for drainage and utilities at least ten feet (10') wide along front and rear lot lines and five feet (5') wide along all abutting side lot lines shall be provided. An easement for drainage and utilities not less than ten feet (10') wide shall be provided adjacent to all plat boundaries. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots. Temporary construction easements may be required where installation depths are greater than twelve (12) feet. Drainage and utility easements shall be kept free of any vegetation or structures which would interfere with the free movement of utility service vehicles.

**B. Continuous Easement Locations.** Drainage and utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing.

**C. Outlot Alternative.** When a subdivision is traversed by a water course, drainage way, wetland, channel, stream or other natural features, the City may at its discretion choose to require outlots rather than drainage and utility easements for these areas.

**Subd. 5 Soil Erosion and Sediment Control.**

**A.** The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

**B.** Erosion and sediment control measures shall be consistent with best management practices (BMPs) for erosion and sedimentation control as specified in the "Minnesota Stormwater Manual" (MPCA 2005), as amended, and shall be sufficient to retain sediment on site.

**C.** Erosion and sediment controls shall meet the standards for the general permit authorization to discharge stormwater associated with construction activity under the national pollutant discharge elimination system/state disposal system permit program permit MN R100001 (NPDES general construction permit) issued by the Minnesota pollution control agency, as amended. Final stabilization of the site must be completed in accordance with the NPDES construction permit requirements.

**D.** Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time. When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development contract.

**E.** Where the topsoil is removed, sufficient topsoil shall be set aside for respreading over the developed area. Topsoil shall be restored or provided to a minimum depth of six inches (6") and shall be of a quality at least equal to the soil quality prior to development.

**F.** Natural vegetation shall be protected wherever practical.

**G.** Runoff water shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system. All on site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 10-year frequency storm without erosion.

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**H.** All temporary erosion and sediment controls shall be installed on all down gradient perimeters before commencing the land disturbing activity and left in place and maintained until the site has been stabilized. All permanent erosion control measures shall be installed and operational per the design and as required by the City.

**I.** If the activity creates more than one acre of disturbed area, and the activity is taking place on a site where soils are currently disturbed (e.g., a tilled agricultural site that is being developed), areas that will not be graded as part of the development and areas that will not be stabilized according to the time frames specified in the NPDES general construction permit part IV.B.S. shall be seeded with a temporary or permanent cover before commencing the proposed land disturbing activity.

**J.** The standards related to soil erosion and sediment control contained in Chapter 11 Land Use Regulation (Zoning) of the City Code shall be applicable to all proposed developments and subdivisions.

**Subd. 6 Protected Areas.**

Where land proposed for subdivision is deemed environmentally sensitive by the City due to the existence of wetlands, drainageways, watercourses, floodable areas or steep slopes, the design of said subdivision shall clearly reflect all necessary measures to ensure against adverse environmental impacts.

Based upon the necessity to control and maintain certain sensitive areas, the City shall determine whether said protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of outlots.

In general, measures of protection shall include design solutions that allow for construction and grading involving a minimum of alteration to sensitive areas. Such measures, when deemed appropriate by the City, may include, but shall not be limited to, the following:

**A.** The establishment of buffers designed consistent with adopted management plans, easements and/or outlots over wetlands, drainageways and watercourses.

**B.** The implementation of flood control measures, including stormwater basins and infiltration design standards as specified in adopted management plans.

**C** The enlargement of lots or redesign of the subdivision.

**D.** The utilization of appropriate erosion control measures subject to approval by the City Engineer.

**E.** Soil testing to determine the ability of the proposed subdivision to support development.

**F.** The limitation of development on slopes steeper than three to one (3:1).

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**G.** Structure conformance to the natural limitations presented by the topography and soil so as to create the least potential of soil erosion.

**H.** The standards related to tree removal contained in Chapter 11 Land Use Regulation (Zoning) of the City Code shall be applicable to all proposed developments and subdivisions.

**Subd. 7 Tree Preservation.**

*This subdivision is to be reserved for tree preservation requirements.*

**Subd. 8 Wetlands and Watercourses.**

**A. Generally.** This section applies to all wetlands and watercourses on public or private land located within the City, whether or not the wetland or watercourse is located on the same property as the development.

**B. Wetland Management Plan.** Utilization and development impacts to wetlands shall be consistent with the city's policies and plans. No grading permit to allow wetland disturbing activities shall be issued until approval of the wetland replacement plan application or a certificate of exemption has been obtained in strict conformance with the provisions of this chapter and the Minnesota wetland conservation act.

**C. Buffer Widths; Setbacks.**

**1.** Protective Buffer. A protective buffer of natural vegetation shall surround all wetlands in accordance with the following provisions:

**a.** Wetlands. The buffer shall have a minimum width of twenty-five feet (25') from the delineated edge of the wetland at the time of development.

**(1)** Average Width. The width of the buffer may be averaged, provided that a minimum buffer width is maintained equal to seventeen feet (17').

**(2)** Public Trails and Sidewalks. Public trails and sidewalks that are a maximum of ten feet (10') in width can be included within the buffer, provided the designated width is maintained.

**(3)** Building Setbacks. For properties developed or redeveloped after March 20, 2012, a building setback of ten feet (10') for a side yard and twenty feet (20') for a rear yard shall be provided from the edge of all required wetland buffers at the time of development.

**D. Buffer Standards.** The following standards apply to all required buffers:

**1.** Acceptable Vegetation. Buffers shall be staked and protected in the field prior to construction. Where acceptable natural vegetation exists in buffer areas, the retention of such vegetation in an undisturbed state is required unless approval to replace such vegetation is received.

**2.** Unacceptable Vegetation. Topography or sparse vegetation that tends to channelize the flow of surface water or vegetation that is unlikely to retain nutrients and sediment are not considered acceptable vegetation for buffer purposes.

**3.** Replanting Vegetation. Where buffer vegetation and conditions are unacceptable, or where approval has been obtained to replant, buffers shall be replanted and maintained according to the following standards:

**a.** Buffers shall be planted with a native seed mix approved by MnDOT, BWSR or the City Engineer, with the exception of a onetime planting with an annual nurse or cover crop. Plantings of native forbs and grasses may be substituted for seeding. All substitutions must be approved by the City. Groupings or clusters of native trees and shrubs, of species and at densities appropriate to site conditions, shall also be planted throughout the buffer area.

**b.** The seed mix and planting shall be broadcast/installed according to MnDOT, BWSR, or City specifications. The selected seed mixes and plantings for permanent cover shall be appropriate for the soil site conditions and free of invasive species.

**c.** Buffer vegetation (both natural and created) shall be protected by erosion and sediment control measures during construction.

**d.** During the first five (5) full growing seasons, except where the City has determined vegetation establishment is acceptable, the owner or applicant must replant buffer vegetation where the vegetative cover is less than ninety percent (90%). The owner or applicant must assure reseeding or replanting if the buffer changes at any time through human intervention or activities.

**4.** Alterations Prohibited. Alterations, including building, storage, paving, routine mowing, burning, plowing, introduction of noxious vegetation, cutting, dredging, filling, mining, dumping, grazing livestock, agricultural production, yard waste disposal, or fertilizer application are prohibited within any buffer. Periodic mowing or burning, or the use of fertilizers and pesticides for the purpose of managing and maintaining native vegetation is allowed. Noxious weeds may be removed and mechanical or spot herbicide treatments may be used to control noxious weeds. Aerial or broadcast spraying is prohibited. Prohibited alterations do not include plantings that enhance the natural vegetation or selective clearing or pruning of trees or vegetation that are dead, diseased or pose similar hazards, or as otherwise clarified in section 12.30 subd. 8 letter D5 of this chapter.

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**5.** Alterations Permitted. The following activities may be permitted within any required buffer:

**a.** The following activities are allowed within both the minimum and average buffer width areas:

**(1)** Use and maintenance of an unimproved access strip through the buffer, not more than ten feet (10') in width, for recreational access to the major waterway or wetland and the exercise of riparian rights.

**(2)** Structures that exist when the buffer is created.

**(3)** Placement, maintenance, repair, or replacement of public roads and utility and drainage systems that exist on creation of the buffer or are required to comply with any subdivision approval or building permit obtained from the city, so long as any adverse impacts of public road, utility, or drainage systems on the function of the buffer have been avoided or minimized to the extent practical.

**(4)** Clearing, grading, and seeding is allowed if part of an approved wetland replacement plan, or approved stream restoration plan.

**(5)** Construction of a multipurpose trail, including boardwalks and pedestrian bridges, provided it is constructed to minimize erosion and new impervious surface, and has an undisturbed area of vegetative buffer at least ten feet (10') in width between the trail and the wetland or public waters wetland edge, or the bank of the major waterway; or where needed to cross the major waterway, the minimum impact alignment is used.

**(6)** The construction of underground utilities such as water, stormwater, and sanitary sewers and pipelines, provided the minimum impact alignment is used and the area is stabilized.

**b.** The following activities are allowed within those portions of the average buffer width that exceed the minimum buffer width:

**(1)** Stormwater management facilities, provided the land areas are stabilized.

**(2)** The area of shallow vegetated infiltration and biofiltration facilities, and stormwater basins not to exceed fifty percent (50%) of the basin area, adjacent to wetlands and major waterways may be included in buffer averaging, provided the facilities do not encroach into the minimum buffer width, and the land areas are stabilized.

**E. Conservation Easement/Outlot.** A conservation easement or a dedicated outlot is required for all buffer areas as part of platting and subdivision approval, except where the buffer is located in a public transportation right of way. Buffers shall be marked to clearly designate the boundaries of all new buffers within new residential subdivisions. A monument shall consist of a post and a buffer strip sign approved by the City. Property owned by the City of Pine Island shall be exempted from establishing an outlot or conservation easement for required buffer areas.

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**Subd. 9 Parkland Dedication Requirements.**

**A. Parkland Dedication.** The City Council finds that as the City continues to increase in population and in land area, available financial resources to purchase and develop lands for park purposes from sources other than the general tax levy have diminished. Appropriate municipal planning and control is needed to ensure that lands suitable for economical park development are identified and preserved for public use during the land subdivision process and not developed for other purposes. The provisions by the City of adequate park facilities to serve the recreational needs of the residents, is an important factor in the maintenance of a high quality of life in the City; and contributes to the health and safety of citizens, especially those who are children. In addition, adequate open space land should be reserved to retain the character of the City, protect wildlife habitats, cleanse the air and stormwater runoff, and to provide passive recreation al opportunities. It is therefore in the best interest of all of the citizens of the City to ensure that when new residential development is hereinafter created or made possible by subdivision of lands, that adequate measures are provided in the subdivision process to permit the City to identify land suitable for development as new park facilities, and to obtain and develop such lands for the use of the public at a reasonable cost. It also is in the best interest of all the citizens of the City to ensure that adequate open space is dedicated and reserved.

**B. Condition of Approval.** As a condition of subdivision approval, the subdivider and/or owner shall dedicate a portion of the buildable land in the proposed subdivision as required in section 12.30 subd 9 letter H & I for conservation purposes or for public use as parks/recreational facilities as defined and outlined in Minnesota statutes section 471.191, playgrounds, trails, wetlands, or open space; provided that the City may choose to accept an equivalent amount in cash for part or all of the portion required to be dedicated based on the fair market value of the land at the time of final approval.

**C. Density Increase.** If there is an increase in density of subdivisions that are replatted, the Planning Commission shall review and shall recommend to the City Council any reconsideration of park land and/or cash contribution requirements.

**D. Exemption.** Property being subdivided without an increase in the number of lots shall be exempt from park and trail dedication requirements if similar requirements were satisfied in conjunction with an earlier subdivision. If the number of lots is increased, then the dedication shall be based on the additional lots created.

**E. Land Suitability.** Land to be dedicated shall in a location and of a character consistent with and suitable for meeting the needs identified by the comprehensive plan or other pertinent study adopted by the City Council. In evaluating the adequacy of proposed park and recreation areas, the City shall consider factors including size, shape, topography, geology, hydrology, tree cover, access and location. Generally land located within wetlands, flood plain areas, drainage ways and pond areas shall not be accepted to meet dedication requirements, except at the discretion of the City Council. At least fifty percent (50%) of the gross area of the land required to be dedicated, shall have a natural slope of four percent (4%) or less, be largely clear of forest vegetation, and shall not be located in an existing watercourse, a 100 year floodway, drainage easement or water ponding area unless otherwise approved by the City Council. In addition, that portion of the land must have a cover of six inches (6") or more of topsoil suitable for the seeding and cultivation of grass. If land proposed to be dedicated has a natural slope in excess of that required by this section, but may be engineered to provide for a slope that meets the requirements imposed therein, the City Council may permit such land to be dedicated to satisfy the requirements of section.

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**F. Contribution Recommendation.** The Planning Commission shall recommend to the City Council the land and/or cash contribution requirements for proposed subdivisions.

**G. Conveyance; Purchase.** When a proposed park, playground, recreation area or other public ground has been indicated in the City's official map or comprehensive plan and is located in whole or in part within a proposed subdivision, it shall be conveyed to the City. If the subdivider and/or owner elects not to dedicate an area in excess of the land required hereunder for such proposed public site, the City may consider acquiring the site through purchase or condemnation.

**H. Amount of Land Required to be Dedicated; Residential Subdivision.** A person requesting a subdivision or resubdivision (where the resubdivision causes an increased demand on parks) of lands under Chapter 12 shall be required, as a precondition of approval of said subdivision request, to dedicate to the use of the public for park, recreation or open space purposes, eight (8) acres per 1,000 projected residents within the subdivision after full development, which is: 0.008 multiplied by the number of persons per dwelling unit, multiplied by the number of dwelling units allowed in the subdivision. The number of persons per dwelling unit shall be based on the following table. The City Council shall periodically review and adjust these assumption as necessary.

Population Density

| Density in Dwelling Units per Gross Acre of Residential Land Area (dwelling units per acre) | Estimated Number of Persons Per Dwelling Unit |
|---|---|
| 0 to 5.99 | 3.05 |
| 6 to 11.99 | 2.22 |
| Over 12 | 1.98 |

**I. Amount of Land Required to be Dedicated; Commercial, Industrial and Institutional Subdivisions.** In commercial, industrial or institutional subdivisions where a land dedication is required the following formula will be used to determine the dedication: Two percent (2%) of the buildable land being subdivided.

**J. Terms of Dedication.** Dedication of land for public use shall be without restrictions or reservations and shall be designated as an outlot on the plat. The developer shall be required to deed the outlot or outlots to the City in a form acceptable to the City, prior to the City releasing the final plat for recording. The developer shall be responsible to grade the land to the contours shown on the approved preliminary plat and to leave the dedicated land in a condition suitable to the City.

**K. Private Open Space.** Where private open space for park and recreation purposes is provided in a proposed subdivision, such areas may be used for credit, at the discretion of the City Council, against the land or cash dedication requirement for park and recreation purposes, provided the City Council finds it is in the public interest to do so.

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**L. Marketability of Title.** Prior to such dedication, a person proposing to subdivide the land shall deliver to the City Attorney for examination, an up to date abstract of title or registered property certificate for examination, or the City Attorney may require a title opinion by a person licensed to practice law in Minnesota. If the examination of title by the City Attorney or the title opinion indicates that title is not marketable, no subdivision of the land shall occur until such steps are taken by the subdivider and/or owner to permit marketable title to be conveyed to the City by dedication upon the land subdivsion or by a subsequent separate conveyance.

**M. Cash Payment in Lieu of Land Dedication.** The City Council may elect to receive a payment of cash in lieu of park land dedication.

The requirement of dedication imposed by section 12.30 subd. 9 letter H & I of this chapter, may be satisfied by a payment of cash in lieu of park land dedication by the subdivider and/or owner to the City or suitable provision in a development contract, which may include fees for land acquisition, preparation and all other purposes. Cash contributions are to be calculated at the time of final subdivision approval. Said payment shall be made prior to the City releasing the final plat of the subdivision for recording in an amount equivalent to the fair market value of land which would otherwise be required to be dedicated. The City Council may require the payment at a later time under terms agreed upon in the development contract. Delayed payment shall include interest at a rate set by the City. The calculation of the amount of the cash payment required shall be computed on the following basis.

**4. Fair Market Value.** "Fair market value" shall be determined as of the time of final subdivision approval in accordance with the following:

**a.** The City and the developer may agree as to the fair market value, or

**b.** The fair market value may be based upon a current appraisal submitted to the City by the subdivider and/or owner at the subdivider and/or owner's expense.

**c.** If the City disputes such appraisal the City may, at the subdivider and/or owner's expense, obtain an appraisal of the property by a qualified real estate appraiser, which appraisal shall be conclusive evidence of the fair market value of the land.

**N. Contribution Combination.** The City may elect to receive a combination of cash, land and development of the land. The fair market value of the land the City wants and the value of the development of the land shall be calculated. That amount shall be subtracted from the cash contribution required by section 12.30 subd. 9 letter M of this chapter. The remainder shall be the cash contribution requirement.

**O. Planned Unit Developments.** Planned unit developments with mixed land uses shall make cash and/or land contributions in accordance with this subdivision based upon the percentage of land devoted to the various uses.

**P. Park Dedication Fund.** All payments collected pursuant to section 12.30 subd. 9 of this chapter shall be placed in a park acquisition and development fund established for the City, and may only be disbursed for purposes consistent with the acquisition and development of parks as the City Council may, from time to time, direct.

**Q. Specialized Housing Uses.**

**1.** Independent living facilities for age restricted senior residents shall be considered the same as multiple-family residential dwellings for the purpose of park dedication requirements based on the number of proposed units at the time of final plat approval.

**2.** Facilities with a combination of senior independent living and/or various levels of housing with services shall make cash and/or land contributions in accordance with this subdivision based upon the number of units designated for the various uses.

**Subd. 10 Minimum Design Features.**

The design features set forth in this chapter are minimum requirements. The City may impose additional or more stringent requirements concerning lot size, streets and overall design as deemed appropriate considering the property being subdivided.

**Subd. 11 Zoning Ordinance and Official Map Consistency.**

Subdivisions and preliminary and final plats may only be approved if they are consistent with the City's zoning ordinance, comprehensive plan and official maps.

## SEC. 12.31 REQUIRED IMPROVEMENTS FOR ALL SUBDIVISIONS.

### Subd. 1 General Provisions.

**A.** Before a final plat is signed by the City, the subdivider and/or owner shall pay all applicable fees and enter into a development contract setting forth the conditions under which the plat is approved.

**B.** Before a final plat is signed by the City, the subdivider and/or owner shall also furnish the City financial security in the form of a cash escrow or irrevocable letter of credit. Letters of credit must be from a state or federally chartered bank or savings and loan association, insured by the Federal Deposit Insurance Corporation, that has an office in the state of Minnesota or a subsidiary of such bank or savings association with an office in the state of Minnesota. If the subdivider and/or owner fails to perform any obligations under the development contract, the City may apply the security to cure the default.

**1.** If the developer is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

**a.** Utilities including but not limited to water, sanitary sewer and storm sewer.

**b.** Sanitary sewer lift stations.

**c.** Streets.

**d.** Streetlights.

**e.** Erosion control.

**f.** Engineering, to include developer's design, surveying and construction observation.

**g.** Landscaping.

**h.** Principal amount of special assessments previously levied against the property together with one year of interest.

**i.** Real estate tax for one year, if there are special assessments.

**j.** City engineering fees.

**k.** City inspection fees.

**l.** Wetland mitigation.

**m.** Custom graded lots.

**n.** Removal of buildings, encroachments and temporary improvements as required.

**o.** Lot corners/iron monuments.

**p.** Retaining walls.

**q.** Site restoration.

**r.** Private signage and pavement markings.

**s.** Record drawings.

**t.** Grading certification.

**u.** Stormwater basins.

**v.** City legal expenses.

**w.** Abandonment of any wells or septic systems.

**x.** Undergrounding of utilities including but not limited to electric, gas, telephone and cable.

**y.** City planning expenses.

**2.** If the City is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

**a.** Principal amount of special assessments for public improvements to be installed together with one year of interest.

**b.** Streetlights.

**c.** Erosion control.

**d.** Landscaping.

**e.** Real estate tax for one year.

**C.** No final plat shall be approved by the City Council without first receiving a report from the City Engineer that the improvements described therein together with the agreements and documents required under this section, meet the requirements of the City.

The City Administrator shall also certify that all fees required to be paid to the City in connection with the plat have been paid or that satisfactory arrangements have been made for payment.

**D.** The City shall require of a subdivider and/or owner submission of a warranty/maintenance bond in the amount equal to the original cost of the improvements or such lesser amount as agreed to by the City Engineer. The required warranty period for materials and workmanship from the contractor installing public sewer, water mains, storm sewer and stormwater retention ponds shall be two (2) years from the date of final acceptance by City Council or one year following final acceptance by City Council of the final bituminous wearing surface for City streets as approved by the City Engineer. The required warranty period for materials and workmanship from the street contractor installing public streets shall be one year from the date of final acceptance by City Council of the final bituminous wearing course. The required period for sod, trees and landscaping shall be two (2) years.

E. The subdivider and/or owner is required to submit the final plat in electronic format. The electronic format shall be either AutoCAD.DWG file or a .DXF file. All construction record drawings (e.g., grading, utilities, streets) shall be in electronic format in accordance with standard city specifications. The subdivider and/or owner shall also submit one complete set of reproducible construction plans.

**F.** All of the required improvements to be installed under the provisions of this chapter shall be approved by and subject to the inspection of the City Engineer. All of the City's expenses incurred as the result of the requirement improvements shall be paid either directly, indirectly or by reimbursement to the City by the subdivider and/or owner.

**G.** Prior to the release of the portion of the required security related to grading, a record drawing shall be submitted to verify that the final as built grades and elevations of the lot and building and building setbacks are consistent with the approved grading plan for the development and amendments as approved by the City Engineer and that all required property monuments are in place.

(04-04-12)

**Subd. 2 Monuments.**

**A.** The boundary lines, interior lot lines, and block lines of the plat shall be fully dimensioned with direction and distance. All boundary, lot, and block corners shall be monumented and properly identified by a licensed Land Surveyor.

**B.** Pipes or steel rods with surveyor's identification shall be placed at each lot corner. Where possible, all United States, State, County or other official bench marks, monuments or triangular stations in or adjacent to the property shall be preserved in precise position. All lot and block dimensions shall be shown on the plat and all necessary direction and distance pertaining to the lots and blocks, as an aid to future surveys shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.

**C.** To ensure that all irons and monuments are correctly in place following the final grading of a plat and construction of utilities, financial security will be required as determined by the City Engineer. Proof of monumentation shall be in the form of a Certificate of Survey prepared and signed by a licensed land surveyor.

**Subd. 3 Streets.**

**A.** The full width of the right of way shall be graded in accordance with the provisions for construction as outlined in section 12.30 of this chapter.

**B.** All streets shall be improved in accordance with the City standards and specifications for street construction as required by the City Engineer.

**C.** All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the City Council. The portion of the right of way outside the area surfaced shall be sodded or seeded by the developer as deemed necessary by the City Engineer.

**D.** Where required, the curb and gutter shall be constructed in accordance to the standards and specifications for street construction as set forth and approved by the City Council.

**E.** The grading and drainage requirements for each plat shall be approved by the City Engineer at the expense of the applicant. Every plat presented for final signature shall be accompanied by a report from the City Engineer that the grading and drainage requirements have been met. In an area not having municipal storm sewer trunk, the applicant shall be responsible, before platting, to provide for a stormwater management plan, without damage to properties outside the platted area, and said stormwater management plan shall be submitted to the City Engineer, who shall report to the City Council on the feasibility of the plan presented. No plat shall be approved before an adequate stormwater management plan is presented and approved by the City Engineer and City Council.

**F.** Trees and boulevard sodding or seeding shall be installed in conformance with the standards and specifications as required by the City Council.

(04-04-12)

**G.** Street signs of the design approved by the City Council shall be installed.

**H.** Driveway aprons and sidewalks of standard design or pedestrian pathways as may be required by the City Council shall be installed.

**I.** Street lighting fixtures as may be required by the City Council shall be installed.

**Subd. 4 Future Street Improvements.**

As a condition of plat approval, when property being platted is adjacent to an existing collector road, highway, or substandard streets which need improvement, the developer shall dedicate land for the widening or improvement and shall post a cash escrow acceptable to the City for the cost of the improvement. This provision shall only apply when the need for the improvement is caused by the plat or surrounding development.

**Subd. 5 Municipal Utilities.**

**A.** Sanitary Sewer. Sanitary sewer facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the City Engineer and shall meet the requirements of the sanitary sewer master plan for sanitary sewer extensions and improvements of the City. All new construction shall be connected to the City sewer system. The use of sanitary sewer ejector pumps for service to individual lots shall not be allowed unless approved by the City Engineer as a private utility fixture prior to installation.

**B.** Water Facilities. Water facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the City Engineer and shall meet the requirements of the water facilities master plan for watermain extensions and improvements of the City. All new construction shall be connected to the City water system.

**C.** Stormwater Facilities. Storm sewer and/or other surface drainage facilities shall be installed as determined to be necessary by the City Engineer for the proper drainage of surface waters.

**D.** Where City sanitary sewer and water facilities are not available for extension to service existing properties, the City Council may permit the use of individual water and sewer systems in accordance with all appropriate state and local regulations.

**Subd. 6 Public Utilities.**

Telephone, electric, communication cable, and/or gas service lines are to be placed underground in accordance with the provisions of all applicable City ordinances.

(04-04-12)

**Subd. 7 Election by City to Install Improvements.**

It is the subdivider and/or owner's responsibility to install all required improvements except that the City reserves the right to elect to install all or any part of the improvements required under the provisions of this chapter pursuant to Minnesota statutes chapter 429, as amended. If the City elects to install the improvements the City may require the developer to post a cash escrow or irrevocable letter of credit guaranteeing payment of the assessments.

**Subd. 8 Sidewalks and Driveways.**

Driveways shall be constructed from the curb and gutter to the property line or property side of sidewalk. Sidewalks thru driveways and driveways shall be constructed to the approved City Engineer standards.

**Subd. 9 Specifications and Inspections.**

Unless otherwise stated, all of the required improvements shall conform to engineering standards and specifications as required by the City Council and City Engineer. Such improvements shall be subject to inspection and approval by, and shall be made in sequence as determined by the City Engineer.

**SEC. 12.32 - 12.39 RESERVED FOR FUTURE EXPANSION.**

## SEC. 12.40 PAYMENT FOR INSTALLATION OF IMPROVEMENTS.

### Subd. 1 Payment for the Installation of Improvements.

**A.** All required public improvements for new subdivisions as required in this chapter are to be furnished and installed at the sole expense of the subdivider and/or owner or at the option of the City Council by the City through an agreement for special assessments. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement (representing the benefit to such lands) to be allocated in accordance with City policies and shall be outlined in the development contract. In such instances the subdivider and/or owner will be required to pay or agree to special assessments for only such portion of the cost which represent benefit to property within the subdivision.

### Subd. 2 Agreement for Providing the Installation of Improvements.

**A.** Prior to installation of any required improvements by the subdivider and/or owner and prior to approval of the final plat, the subdivider and/or owner shall enter into a development contract and provide cash escrow, irrevocable letter of credit, or similar guarantees to the City related to performance, and/or for installation of public improvements, and/or subdivider and/or owner to install improvements.

**B.** The subdivider and/or owner shall furnish and construct improvements at the subdivider and/or owner sole cost and in accordance with plans and specifications and usual development contract conditions. This shall include provision for supervision of details of construction by the City Engineer and shall grant to the City Engineer authority to work with contractors to complete the improvements to be done under said development contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the City in the vicinity. The agreement shall require all public and private utility material standards and installation requirements to be met and shall be approved by the City Engineer.

**C. Owner to Construct**. If the improvements are to be constructed by the subdivider and/or owner, the agreement shall require the subdivider and/or owner to make an escrow deposit or furnish an irrevocable letter of credit as required by this section and as determined by the City. The amount of the escrow deposit or irrevocable letter of credit is to be based on the City Engineer's estimate of the total cost of the improvements to be furnished and installed by the subdivider and/or owner under the development contract, including the cost of inspection as required by the City. The amount of the escrow deposit or irrevocable letter of credit shall be equal to one hundred and twenty-five percent (125%) of the City Engineer's estimate.

**D.** On request of the subdivider and/or owner, but at the sole discretion of the City, the development contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat. In such event, and if evidence is presented that the described work and improvements have been paid for, the amount of the deposit may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat.

(04-04-12)

**E.** Required improvements shall be completed by the subdivider and/or owner within the time specified within the approved development contract; provided that the City Council for good cause may extend the period of time in which the improvements must be installed.

**F.** If the required improvements are not completed within the specified time period or a period approved by the City Council as hereinabove provided, all financial securities shall be turned over to the City and applied toward the cost of the required improvements. Any balance after the improvements have been made shall be returned to the subdivider and/or owner upon written request.

**G.** No subdivider and/or owner shall be permitted to start work on any other subdivision improvements without special written approval of the City Council.

**H. City to Construct**. If the City has agreed to construct said improvements, an agreement for special assessments must be entered into. Such agreement shall require the subdivider and/or owner to provide an escrow deposit or irrevocable letter of credit to the City according to section 12.31 subd. 1 letter B2 of this chapter.

**1.** By providing such escrow deposit or irrevocable letter of credit the subdivider and/or owner expressly understands that any amount, up to one hundred percent (100%) of the amount, shall be forfeited by the subdivider and/or owner should any annual assessment for one or more parcels still owned by the subdivider and/or owner become delinquent per the subdivider and/or owner's tax statement(s).

**2.** The City may, at its option, from time to time reduce the escrow deposit or amount of the irrevocable letter of credit as the subdivider and/or owner constructs houses and sells such to private third parties who have assumed responsibility for such assessments. The subdivider and/or owner shall be responsible for providing proof of sale and assumption of such assessments.

**3. Waiver of Hearing.** By entering into a special agreement with the City, the subdivider and/or owner waives all right to an assessment hearing and subsequent rights of appeal for any default costs associated with a project covered by agreement.

**Subd. 3 Financial Guarantees.**

The development contract requires the subdivider and/or owner to make an escrow deposit or provide a certified check or irrevocable letter of credit as determined by the City. The escrow deposit or irrevocable letter of credit shall conform to the requirements of this section.

**A.** Escrow Deposit.

**1.** If an escrow deposit is required, the escrow deposit shall be made with the City Administrator in an amount based on the City Engineer's estimate as required in this section.

**2.** The City shall be entitled to reimburse itself out of said escrow deposit or for any cost and expense incurred by the City for completion of the work in case of default of the subdivider and/or owner under said development contract, and for any damages sustained on account of any breach thereof.

**3.** Upon completion of the work and termination of any liability, the balance remaining in said escrow deposit shall be refunded to the subdivider and/or owner.

**4.** Interest on Escrow Deposits. Any interest earned from escrow accounts or funds in irrevocable letter of credits shall be paid to the subdivider and/or owner.

**B.** Irrevocable Letter of Credit.

**1.** If the subdivider and/or owner is required to furnish an irrevocable letter of credit, the sum shall be payable to the order of the City and delivered to the City in an amount based on the City Engineer's estimate as required in this section.

**2.** The irrevocable letter of credit shall be approved as to form by the City Attorney and filed with the City Administrator.

**3.** The City shall be entitled to reimburse itself out of said irrevocable letter of credit for any cost and expense incurred by the City for completion of work (including legal fees) in case of default of the applicant under said development contract, and for any damages sustained on account of any breach thereof.

**C.** Default. In the event the subdivider and/or owner defaults on ~~in~~ the terms of the development contract with the City, the City may complete such improvements or pay for such assessments and collect such claims together with damages and reasonable fees from the instrument of guarantee. Should the default result in costs to the City beyond the limits of financial guarantee, the City may assess those excess costs against the property being subdivided and collect such as if it were any other special assessment levied by the City against real property.

(04-04-12)

**Subd. 4 Construction Plans and Inspection.**

**A.** Construction Plans and Specifications: A minimum of four (4) full size copies, one 11-inch by 17-inch copy, and one electronic copy of the construction plans shall be furnished to the City Engineer for review and approval. Additional copies may be required by the City. Construction plans for the required improvements shall conform in all respects with all applicable ordinances and standards of the City. Construction documents shall be prepared, at the expense of the subdivider and/or owner, by a licensed Professional Engineer (Civil) and said plans shall contain professional certification. Such plans, together with the quantities of construction items, shall be submitted to the City Engineer for approval and for an estimate of the total cost of the required improvements. Upon approval, they shall become a part of the development contract.

**B**. All required improvements on the site that are to be installed under the provisions of this chapter shall be inspected during the course of construction by the City Engineer at the subdivider and/or owner's expense, and acceptance by the City shall be subject to the City Engineer's certificate of compliance with the development contract.

**C.** Warranty: The subdivider and/or owner shall provide to the City a written warranty that all required improvements on the site meet or exceed all City standards and that such improvements have been inspected and tested in regard to the City standards. The subdivider and/or owner is responsible for having all such inspections and testing completed at the subdivider and/or owner's expense.

**Subd. 5 Development Contract.**

**A.** Prior to commencing grading or the installation of any required improvements and prior to approval of the final plat, the subdivider and/or owner shall enter into a written development contract with the City requiring the subdivider and/or owner to furnish, construct, and complete said grading and improvements in accordance with plans and specifications and usual agreement conditions and/or pay appropriate costs for improvements or other costs associated with the plat. Further, the development contract shall provide for the development of any restrictions, covenants, easements, signage, park or open space requirements, or other conditions of the approved preliminary plat, and provide for proper execution, recording, and other action required. Approval of the development contract shall be by City Council resolution.

**B.** For a project involving a phasing plan, the initial development contract shall allow for grading, wetland mitigation, and installation of stormwater management facilities on the entire site included in the approved preliminary plat. Such work may begin after approval of the preliminary plat but only after approval, execution, and recording of the development contract and payment of financial securities. Such work shall comply with the approved grading plan.

**C.** The construction of streets, facilities for sanitary sewer and water, and other improvements beyond grading, wetland, and stormwater facilities shall not begin until approval of a final plat. Each subsequent phase shall require a separate development contract for improvements beyond those covered in previous development contracts. Improvements in each phase shall not begin until the final plat for that phase is approved and the development contract for the phase is approved, executed, and recorded.

(04-04-12)

**D.** The initial development contract (for grading) may address construction of streets and facilities for sanitary sewer and water for the first phase and list the financial securities and other requirements. However, the development contract shall stipulate that the work on these improvements shall not begin until approval of the final plat for the first phase and the provision of all financial securities by the subdivider and/or owner.

**E.** Each approved and executed development contract shall be recorded. Each development contract shall state that it is binding upon the subdivider and/or owner, his/her or their heirs, personal representative, and assigns. It shall stipulate that:

**1.** All improvements called for in the plat, or in any supplementary development contracts, shall be complete within the time specified by the City.

**2.** No private construction shall be conducted on any lots in the plat or filing of applications for building permits for construction on said lots until all improvements required under City regulations for the proposed subdivision have been made or arranged in a manner provided in this section.

**F.** The development contract shall include provisions for construction work inspection by the City and assurance that the subdivider and/or owner will conform with current testing requirements and quality control procedures of the City. The subdivider and/or owner shall provide documentation from a qualified testing laboratory and/or licensed Professional Engineer (Civil), that all improvements have been constructed in accordance with the requirements of the approved plans and specifications.

**G.** The development contract shall require the subdivider and/or owner to provide a certification from a licensed Land Surveyor or licensed Professional Engineer (Civil) that the land included in the plat has been graded in conformance with the approved grading plan prior to the issuance of building permits.

**H.** The development contract shall require the subdivider and/or owner to provide a financial security to ensure payment of fees related to the subdivision and completion of all improvements.

**I.** A time schedule for completion of the work shall be determined by the City upon recommendation of the City Engineer after consultation with the subdivider and/or owner and shall be reasonable in relation to the work to be done, the seasons of the year, and proper coordination with construction activity in the subdivision.

**J.** The development contract shall include action remedies in the event of default including:

**1.** The City may complete the improvements by contract or force and obtain reimbursement of its costs from the posted security deposit.

**2.** The City reserves the right to withhold building permits for violation of any terms of the development contract.

(04-04-12)

**Subd. 6 Improvements Completed Prior to Approval of the Final Plat.**

Improvements within a subdivision which have been completed prior to application for approval of the final plat, or execution of the contract for installation of the required improvements, shall be accepted as equivalent improvements in compliance with these requirements only if the City Engineer certifies that the existing improvements conform to applicable standards and is evidence of payment for the work that has been completed and has been presented in such form(s) reasonably required by the City.

**Subd. 7 Trunk Facilities.**

Where a larger size water main, sanitary sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility required shall be constructed. Additional costs shall be allocated as outlined in the development contract.

**Subd. 8 Alternate Installation.**

The City may elect to install any or all of the required improvements pursuant to a special assessment agreement along with an escrow deposit or irrevocable letter of credit or other financial arrangements with the subdivider and/or owner.

**Subd. 9 Certificate of Occupancy.**

**A.** No certificate of occupancy shall be issued by the building official for any building in the subdivision prior to all improvements outlined in the development contract having been installed. Exceptions to this provision may be granted by the City Council at their discretion as part of the development contract.

**B.** Prior to issuance of a temporary certificate of occupancy, the property owner and prospective buyer, under a purchase agreement for the property, shall execute a right of access for City erosion control inspection in a form provided by the City.

**Subd.10 Maintenance of Improvements.**

The subdivider and/or owner shall be required to maintain all improvements in the subdivision or on the individual subdivided lots and provide for snow removal and maintenance of streets, if required, until acceptance of said improvements by the City Council in coordination with the development contract.

## SEC. 12.41 ADMINISTRATION AND ENFORCEMENT.

### Subd. 1 Violations and Penalty.

**A. Sale of Lots from Unrecorded Plats.** It shall be a misdemeanor to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or replat of any subdivision or area located within the jurisdiction of this chapter unless said plan, plat or replat shall have first been recorded in the County Recorders Office.

**B. Receiving or Recording Unapproved Plats.** It shall be unlawful for a private individual to receive or record in any public office any plats of land laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this chapter, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.

**C. Misrepresentations.** It shall be a misdemeanor for any person owning an addition or subdivision of land within the City to represent that any improvement upon any of the streets, alleys or avenues of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the City, when such improvements have not been so constructed, supervised or inspected.

**D. Penalty.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. Each month during which compliance is delayed shall constitute a separate offense.

### Subd. 2 Variances, Planning Commission Recommendations and Standards.

**A. Findings.**

The Planning Commission may recommend a variance from the minimum standards of this chapter (not procedural provisions) when, in its opinion, practical difficulties may exist on the property. In recommending any variance, the Planning Commission shall prescribe any conditions that it deems necessary to or desirable for the public interest. In making its recommendations, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be recommended when the Planning Commission finds:

**1.** Variances shall only be permitted when they are in harmony with the general purposes and intent of this zoning code.

**2.** Variances shall only be permitted when consistent with the comprehensive plan.

(04-04-12)

**3.** Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning code.

**a.** "Practical difficulties" shall mean that the property owner proposes to use the property in a reasonable manner not permitted by the zoning code; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

**b.** Economic considerations alone do not constitute practical difficulties.

After considerations of the Planning Commission recommendations, the City Council may grant variances, subject to subsections 1, 2 and 3 of this section.

**B. Application and Procedures.** The application and procedures for processing a variance shall be in accordance with section 11.19, subd. 4 of chapter 11 Land Use Regulation (Zoning) of the City Code.

(04-04-12)

**SEC. 12.42 - 12.99 RESERVED FOR FUTURE EXPANSION.**

CHAPTERS 13 THROUGH 19

RESERVED FOR FUTURE EXPANSION

**SUB-ANALYSIS**

**Title**

**CHAPTER 20 LISTING OF UNCODED ORDINANCES IN EFFECT**

Fluoridation of Water

Authorize Issuance of Permit to Security State Bank

Regulations for Placement and Installation of Mail, Newspaper and Advertising Boxes

Adoption of Codification

Storm Sewer Improvement Tax District

Street and Alley Vacations

Grant of Electric Franchise

Grant of Cable TV Franchise

Grant of Natural Gas Franchise

Annexations

Zoning Map Amendments

Establishing Calendar Parking

Vacation of Public Streets and Alleys

Extension of Corporate Limits of the City of Pine Island

Rezoning Property

Interim Ordinances

Roadway Design Guidelines

## CHAPTER 20 LISTING OF UNCODED ORDINANCES IN EFFECT

All ordinances described in this Chapter remain in effect after adoption of the City Code. They are of a permanent and continuing nature as authority for a specific act which has been performed. These ordinances are of two types, that generally distinguish them from other provisions of the City Code, either (1) their texts have no continuing reference value, or (2) they are in the nature of a contract and of only occasional reference value. For these reasons it appears justified to list and describe them here only to facilitate finding them in the event this becomes necessary.

(12-16-08)

**Fluoridation of Water**

Ordinance No. 173, adopted July 17, 1962, provides for the fluoridation of the City water supply and authorizes procurement, installation and maintenance of necessary equipment.

**Authorize Issuance of Permit to Security State Bank**

Ordinance No. 190, adopted in 1970, authorizes issuance of a permit to Security State Bank for the installation and maintenance of a drive-in teller within the boulevard area on the north side of White Street.

**Regulations for Placement and Installation of Mail, Newspaper and Advertising Boxes**

Ordinance No. 30, Second Series, adopted September 16, 1997 adopts regulations for the placement and installation of mail, newspaper and advertising boxes in the City.

**Adoption of Codification**

Ordinance No. 1, Second Series, adopted June 19, 1990, adopts *a* codification of the ordinances of the City.

**Storm Sewer Improvement Tax District**

Ordinance No. 27, Second Series, adopted January 8, 1997, establishes a storm sewer improvement tax district.

**Street and Alley Vacations**

Ordinance No. 154, adopted June 7, 1946, vacates 16 foot alley between Lots 3 and 4, and 7 and 8, in Block 24, and portions of Florence Street and East Street.

Ordinance No. 155, adopted November 22, 1946, vacates north and south alley, center of Lots 1 to 10 in Blocks 1 and 2, and also Vine Street between Blocks 1 and 2. Easement to be obtained.

Ordinance No. 28, Second Series, adopted March 18, 1997, vacates the North 2.00 feet of Second Street NE, beginning at the SE corner of Block 1, Original Plat of Pine Island, and extending westerly a distance of 250.00 feet.

(12-16-08)

**Grant of Electric Franchise**

Ordinance No. 165-A, adopted November 1, 1972, grants electric franchise to Northern States Power Company for a period of twenty (20) years.

Ordinance No. 16, Second Series, adopted April 20, 1993, grants electric franchise to Northern States Power Company for a period of twenty (20) years.

**Grant of Cable TV Franchise**

Ordinance No. 238, adopted March 16, 1982, grants cable television franchise to Pine Island Telephone Company for a period of fifteen (15) years.

Ordinance No. 26, Second Series, adopted September 17, 1996, grants cable television franchise to Pine Island Telephone Company for a period of fifteen (15) years.

Ordinance No. 115, Second Series, adopted February 21, 2012, grants cable franchise to Pine Island Telephone Company for a period of fifteen (15) years.

**Grant of Natural Gas Franchise**

Ordinance No. 121, Second Series, adopted February 19, 2013, grants natural gas franchise to Minnesota Energy Resources Corporation for a period of five (5) years.

**Annexations**

| Ordinance Number | Date of Adoption | Brief Description |
|---|---|---|
| 151 | 6-4-46 | Part of NE-1/4 of 5-108-15 (Hess Addition.) |
| 197 | 8-24-72 | Part of NE-1/4 of 5-108-15 |
| SECOND SERIES: | | |
| 22 | 3-15-94 | Part of NE-1/4 of 5-108-15. |
| 24 | 3-19-96 | Part of W-l/2 of NW-1/4 and of NE-1/4 of NW-1/4 of 4-108-15. |
| 25 | 5-21-96 | Part of N-l/2 of SW-1/4 of 33-109-15. |
| 29 | 3-18-97 | Part of NW-1/4 of SE-1/4 of 33-109-15. |

(02-27-13)

| | | |
|---|---|---|
| Resolution | 10-28-97 | Part of S-l/2 of SW-1/4 of 34-109-15. |
| 83 | 4-18-06 | Certain lands lying within existing City boundaries |
| 86 | 4-17-07 | Certain lands lying within existing Pine Island Township |
| 88 | 7-17-07 | Certain lands lying within existing Pine Island Township |
| 93 | 11-18-08 | Certain lands lying within existing Pine Island Township |
| 104 | 11-17-09 | Certain lands in Pine Island Township in Goodhue County and New Haven Township in Olmsted County |
| 108 | 4-19-11 | Certain lands laying within New Haven Township |

**Zoning Map Amendments**

| Ordinance Number | Date of Adoption |
|---|---|
| 255 | 1-21-86 |
| 258 | 5-20-86 |
| 90-2 | 2-20-90 |
| 113-2 | 10-26-11 |

**Establishing Calendar Parking**

Ordinance No. 58, Second Series: This ordinance not adopted, please refer to Ordinance No. 79 amending Section 9.08 adopted July 28, 2004.

(02-27-13)

**Vacation of Public Streets and Alleys**

Ordinance No. 59, Second Series: The following streets will be vacated as adopted on June 5, 2001.

1) 2nd Ave. N.E. between 1st St. N.E. and Goodhue County Road No. 11 and;

2) The alley in Block 13 of the Town Plan of the City of Pine Island, between 1st Street N.E. and Goodhue County Road No. 11; and

3) That part of 8th Street SW as dedicated on the duly recorded plat if KISPERT FARMS, Olmsted County, Minnesota, described as follows: the South 17 feet lying West of the northerly extension of the East lot line of Lot 1, Block 1; and the South 17 feet lying East of the northerly extension of the West lot line of Lot 1, Block 3, and the South 17 feet lying between the northerly extension of the West lot line of Lot 1, Block 2, and the northerly extension of the East lot line of Lot 10, Block 2.

Ordinance No. 72, Second Series: The following alley will be vacated as adopted on December 17, 2002.
Alley located in Block 58, Original Plat, City of Pine Island, Goodhue County, area bounded on the North by 7th Street SE, on the west by lots 1-3, Block 58, on the east by lots 4-6 Block 58, and on the south by Olmsted County.

**Vacation of Public Streets and Alleys**

Ordinance No. 76, Second Series: The following street will be vacated as adopted on December 17, 2002.
That part of Key Stone Drive N.E. as platted in Pine Crest, City of Pine Island, Minnesota, lying east of and adjacent to Lot 21, Block 1, of said Pine Crest, bounded on the north by the Easterly extension of the north line of said Lot 21 and bounded on the south by the easterly extension of the south line of said Lot 21.

**Extension of Corporate Limits of the City of Pine Island**

Ordinance No. 62, Second Series: Annexation of approximately 10.57 acres as describes herein as that part of the N-1/2 of the NE-1/4 of Section 6, Township 108 N, Range 15 W, Olmsted County, MN. adopted on July 17, 2001.

Ordinance No. 65, Second Series: Annexation of approximately 2.20 acres of New Haven Township, County of Olmsted describes as the E-1/2 of the NE-1/4 of Section 4, Township 108 N, Range 15 W, Olmsted County, MN, EXCEPT the North 1300.00 ft. thereof adopted on August 21, 2001.

Ordinance No. 80, Second Series: Annexation of approximately 7 acres of New Haven Township, County of Olmsted, that abuts the city limits of Pine Island along its Southern, Eastern, and Northern boundary of the existing city limits adopted September 21, 2004.

(02-27-13)

**Rezoning Property**

Ordinance No. 91, Second Series, adopted 9-16-08: Rezoning property owned by subsidiaries of Tower Investments, Inc. from Agricultural to Industrial.

Ordinance No. 96, Second Series, adopted 12-16-08: Designating Property located at 232 South Main Street as a Heritage Preservation Site.

Ordinance No. 101, Second Series, adopted 9-15-09: Rezoning property owned by subsidiaries of Tower Investments, Inc. from Agricultural to Industrial I-1.

Ordinance No. 102, Second Series, adopted 9-15-09: Rezoning property owned by Pine Island Senior Citizens from Residential R-2 to Commercial C-1.

**Interim Ordinances**

Ordinance No. 85, Interim Ordinance Establishing one year moratorium on installation, erection, construction, replacement, modification or improvement of electronic, digital, or video billboards and flashing, motion, animated, changeable copy and illuminated signs in all zoning districts, adopted February 20, 2007.

Ordinance No. 106, Interim Ordinance Establishing a one year moratorium on issuance of CUPs permitting installation of wind energy conversion systems (wind turbines) in residential zoning districts, adopted January 19, 2010.

**Roadway Design Guidelines**

Non Ordinance (not published) adopted by the City on June 17, 2008 – "City of Pine Island Roadway Design Standards".

(02-27-13)